United Nations S/2005/772

Security Council

Distr.: General
9 December 2005

Original: English

Letter dated 2 December 2005 from the Secretary-General addressed to the President of the Security Council

I have the honour to refer to the United Nations Military Observer Group in India and Pakistan (UNMOGIP).

Following the usual consultations, it is my intention to appoint Major General Dragutin Repinc (Croatia) as Chief Military Observer of UNMOGIP. General Repinc will replace Major General Guido Dante Palmieri (Italy), who relinquished his post on 13 September 2005.

I should be grateful if you would bring this matter to the attention of the members of the Security Council.

(*Signed*) Kofi A. **Annan**

05-63477 (E) 091205

United Nations S/2005/773

Security Council

Distr.: General
9 December 2005

Original: English

Letter dated 8 December 2005 from the President of the Security Council addressed to the Secretary-General

I have the honour to inform you that your letter dated 2 December 2005 (S/2005/772) concerning your intention to appoint Major General Dragutin Repinc (Croatia) as Chief Military Observer of the United Nations Military Observer Group in India and Pakistan (UNMOGIP) has been brought to the attention of the members of the Security Council. They take note of the intention expressed in your letter.

(*Signed*) Emyr **Jones Parry**
President of the Security Council

05-63489 (E) 091205

United Nations S/2005/774

Security Council

Distr.: General
9 December 2005

Original: English

Letter dated 9 December 2005 from the Chargé d'affaires a.i. of the Permanent Mission of Ethiopia to the United Nations addressed to the President of the Security Council

I have the honour to transmit herewith a letter from Seyoum Mesfin, Minister for Foreign Affairs of the Federal Democratic Republic of Ethiopia regarding the situation between Ethiopia and Eritrea (see annex).

I should be grateful if you would kindly circulate the present letter to all members of the Security Council as a document of the Council.

(*Signed*) Ambassador Teruneh **Zenna**
Chargé d'affaires a.i.

05-63505 (E) 091205

Annex to the letter dated 9 December 2005 from the Chargé d'affaires a.i. of the Permanent Mission of Ethiopia to the United Nations addressed to the President of the Security Council

I have the honour to refer to Security Council resolution 1640 (2005). As always, Ethiopia shall do its level best to cooperate with the Security Council so that we may, sooner rather than later, be able to put behind us the unnecessary crisis between Ethiopia and Eritrea, which is in the interest of no one.

I wish to address first the issue of the demarcation of the boundary on the basis of the decision of the Boundary Commission. Ethiopia is firmly convinced that the carrying out of that task, notwithstanding the feigned frustration of Eritrea, is a matter which should cause no major hurdle if there is political will on the part of both parties. Ethiopia has such a will and it has no interest in keeping the crisis between the two countries going. That is why we came up with the five-point peace proposal more than a year ago, which was welcomed by the international community, including by the Security Council.

Ethiopia wishes to reassure the Security Council that what Ethiopia is looking for is a win-win outcome which is consistent with sustainable peace between the two countries.

With respect to the current tension, which was the major reason for Council resolution 1640 (2005), it must be stressed that it is Eritrea that has created the ongoing crisis. As we have emphasized whenever we have had the opportunity, Eritrea should not be rewarded for escalating tensions along the border, a tactic that Eritrea appears to have adopted as a means of putting pressure on the Security Council.

In response to Eritrea's continued bellicose words and actions in violation of the Algiers Agreements, Ethiopia has reacted with consistent moderation. Ethiopia has made clear its eagerness to engage Eritrea in dialogue, which the Secretary-General and the Security Council have repeatedly urged. Moreover, while Ethiopia has continued to be vigilant, taking the necessary steps consistent with its obligation and commitment to prevent a miscalculation by Eritrea, Ethiopia has guaranteed that it will not resort to threats or use of force as a means of resolving the dispute between the two countries.

Coming to specifics with respect to what is expected of the two countries to reduce the current tension pursuant to resolution 1640 (2005), I would like to stress that, unlike Eritrea, Ethiopia does not have any troops in the Temporary Security Zone and that the current deployment of troops is fully consistent with Ethiopia's obligations under the Algiers Agreement. We have no doubt that the Security Council is fully aware that Eritrea has violated the integrity of the Temporary Security Zone and that this Eritrean move is indeed dangerous. However, in the interest of peace and with a view to affording a better opportunity for the implementation of resolution 1640 (2005), Ethiopia is prepared to redeploy its forces consistent with the instruction contained in paragraph 2 of the resolution. Though we have seen no encouraging signs from Eritrea even after the resolution was adopted, Ethiopia is convinced that its compliance with the Council's instruction is necessary even if doing so might present some risks to Ethiopia's

security. It is Ethiopia's firm conviction that should there be any attempt by Eritrea to take advantage of Ethiopian unilateral compliance so as to cause harm to our country's security, the Security Council will shoulder its responsibility by taking the necessary measures.

(*Signed*) Seyoum **Mesfin**
Minister

United Nations S/2005/775

Security Council

Distr.: General
12 December 2005

Original: English

Letter dated 12 December 2005 from the Secretary-General addressed to the President of the Security Council

I have the honour to transmit herewith the report of the United Nations International Independent Investigation Commission (the "Commission"), which was prepared pursuant to resolutions 1595 (2005) and 1636 (2005) (see annex).

The report details progress made in the investigation of the bombing in Beirut on 14 February 2005 that killed former Prime Minister Rafik Hariri and 22 others and builds on earlier conclusions presented to the Security Council. It outlines in detail substantive progress on a number of aspects of the investigation and it demonstrates a growing partnership between the Lebanese authorities and the Commission. The report describes the Commission's efforts to gain the cooperation of the Syrian authorities. Those efforts have only recently begun to bear fruit after delays which had an impact on the Commission's ability to effectively carry out its work.

I wish to thank the staff of the Commission for their excellent work. In particular, I wish to thank Detlev Mehlis, the Commissioner, for his excellent leadership in establishing the Commission and setting it on a firm and professional footing. Mr. Mehlis has informed me that he would not be available to head the Commission if the Security Council chooses to extend its mandate. In the meantime, I have been working to ensure that a successor is chosen as soon as possible, and have also worked out a satisfactory arrangement with Mr. Mehlis to ensure continuity of the Commission's work until a successor assumes his or her duties.

Mr. Mehlis recommends, pursuant to paragraph 8 of resolution 1636 (2005), that the mandate of the Commission be extended for a period of six months to enable the investigation to continue. This extension was requested, also pursuant to paragraph 8 of resolution 1636 (2005), by Mr. Fouad Siniora, President of the Council of Ministers of Lebanon, in a letter to me dated 5 December.

I should be grateful if you would bring this matter to the attention of the members of the Security Council. Meanwhile, I am transmitting the report to the Government of Lebanon.

(*Signed*) Kofi A. **Annan**

05-63679 (E) 151205

Annex

Second report of the International Independent Investigation Commission established pursuant to Security Council resolutions 1595 (2005) and 1636 (2005)

Detlev Mehlis
Commissioner
UNIIIC

Beirut
10 December 2005

Summary

The Security Council, by its resolution 1636 (2005) of 31 October 2005, requested the United Nations International Independent Investigation Commission to report on the progress of its investigation of all aspects of the terrorist attack which took place on 14 February 2005 in Beirut that killed former Lebanese Prime Minister Rafik Hariri and others, including to help identify its perpetrators, sponsors, organizers and accomplices, by 15 December 2005.

The present report sets out progress with the main lines of enquiry of the investigations since the adoption of Council resolution 1636 (2005), its observations thereon and its conclusions and recommendations, for the consideration of the Security Council. It also identifies those matters on which further investigation may be necessary.

The report outlines progress with regard to the form and content of Syrian cooperation with the Commission.

The Commissioner sets out the next steps which are planned to be taken in the enquiry, as well as a number of conclusions and recommendations which reflect current progress in the investigation.

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I. Preface

1. In accordance with Security Council resolution 1595 (2005), the United Nations International Independent Investigation Commission ("UNIIIC" or "the Commission") submitted its report on 19 October 2005 (S/2005/662), reflecting the outcome of its work since it was declared operational on 16 June 2005.

2. In a letter dated 14 October 2005 (S/2005/651), the Prime Minister of Lebanon conveyed to the Secretary-General of the United Nations the request of the Government of Lebanon to extend the mandate of the Commission until mid-December 2005. The purpose of the extension was to enable the Commission to further assist the Lebanese authorities to pursue the various lines of enquiry that had emerged in the course of the investigation in order to attain the main objective of the mission: to help identify the perpetrators, sponsors, organizers and accomplices in the terrorist attack which killed former Prime Minister Rafik Hariri and 22 others on 14 February 2005 in Beirut.

3. Following the presentation of the Commission's report and the briefing provided by the Commissioner to the Security Council on its content on 25 October 2005, the Security Council, acting on the request submitted by the Government of Lebanon and mindful of the Commission's recommendation that continued assistance should be provided to the Lebanese authorities, adopted resolution 1636 (2005) of 31 October 2005, whereby the Council welcomed the report of the Commission and the Secretary-General's decision to extend the mandate of the Commission until 15 December 2005.

4. In its resolution 1636 (2005), a follow-up to resolution 1595, the Council extended the scope of the Commission's authority insofar as it gave the Commission, inter alia, the same rights and authorities vis-à-vis the Syrian Arab Republic as it has been granted in Lebanon, and the authority to determine the location and modalities for interview of Syrian officials and individuals it deems relevant to the enquiry. It called upon the Syrian authorities to cooperate fully and unconditionally with the Commission and to detain any Syrian officials or nationals considered as suspects by the Commission.

5. In conformity with the two resolutions, the Commission continued its work on the same lines of enquiry it had adopted since its inception. The Commission, in close cooperation with the Lebanese judicial and security authorities, has pursued new leads, heard an additional number of witnesses (which today total more than 500), confirmed a list of 19 suspects, analysed a voluminous bulk of materials with the help of the Internal Security Forces (ISF), and continued to exchange with the Office of the Prosecutor General of Lebanon all resultant information, material and evidence.

6. With regard to the Syrian track of the investigation, the Commission acted in conformity with Council resolution 1636 (2005), in which the Council endorsed the Commission's conclusion that it was incumbent upon the Syrian authorities to clarify a considerable part of the questions which remain unresolved. A window of opportunity was open for the Syrian authorities to carry out their own investigation into the assassination of Mr. Hariri and others insofar as Syrian involvement might be concerned.

7. By virtue of legislative decree No. 96 (29 October 2005), a Syrian Judicial Commission was set up to carry out its own investigation into the Hariri case. While UNIIIC welcomes this initiative, it is of the view that the Syrian Judicial Commission's function is to focus on the internal investigation of the case to clarify a picture that UNIIIC has been trying hard to comprehend. The Syrian Commission cannot invalidate or substitute for the work of UNIIIC. The Commission, for its part, will continue its contacts with the Syrian authorities to move forward on the Syrian track.

8. By creating the Judicial Commission, the Syrian authorities were perceived as willing to share their part of the responsibility so as to shed more light on the circumstances of the assassination and to help establish the truth. Whether this measure was prompted by a genuine desire to cooperate in substance or whether it came as a result of the firm message conveyed by Council resolution 1636 (2005), it remains to be seen whether a substantive law-enforcement investigation will be carried out to its full extent. Moreover, it is only the actual and continuous responsiveness of the Syrian authorities that will remove any doubts about Syrian substantive movement in the case.

9. Following the adoption of Council resolution 1636 (2005), the Commission immediately summoned six Syrian officials whom it considers as suspects. After arduous discussions and considerable delay due to procedural manoeuvring and sometimes contradictory feedback from the Syrian authorities, a location was determined for the questioning of five Syrian officials. The interview of the sixth suspect has been postponed. The Commission is also still awaiting the provision of other requested materials. At the same time, the Syrian Judicial Commission organized a press conference with a Syrian witness who gave journalists an opportunity to question him before the Judicial Commission could do so, and who contradicted prior sworn evidence given to the Commission. The Syrian official statements that ensued, calling upon UNIIIC to reconsider past mistakes and to revise its report, was a clear indication that, while an official channel of communication was operating between the Commission and the Syrian authorities regarding cooperation, the Judicial Commission and the Syrian authorities were aiming to cast doubt on the content of the UNIIIC report. This was, at the least, an attempt to hinder the investigation internally and procedurally.

10. However, it is worth noting that, despite their reluctance and procrastination, the Syrian authorities did make available for questioning the five Syrian officials that the Commission had summoned. The extensive interviews took place outside the Syrian Arab Republic, according to conditions determined by the Commission. UNIIIC investigators were also able to interview a Syrian witness in the Syrian Arab Republic without interference. As this is the beginning of a long-awaited process, it is up to the Syrian authorities to be more forthcoming in order to make headway in a process that will be most probably a long one if it is to be judged against the pace of progress to date.

11. To date, the Commission has made steady progress on the Lebanese track. It remains to be matched on the Syrian track. For that reason, it is the Commission's view that the Syrian Arab Republic should pursue its own investigation in an earnest and professional manner and respond to the Commission in a timely way, fully and unconditionally, before it is determined whether it is complying in full with the provisions of resolution 1636 (2005).

II. Progress in the investigation

12. In the short period since its last report, the Commission has continued to follow the lines of enquiry developed over the course of the previous six months of investigation, as well as to pursue a number of new leads, sources and other materials. Close cooperation has continued with the Lebanese authorities, in particular with the office of the Prosecutor-General and the Investigative Judge assigned to the case: the transfer of materials in the case file has proceeded at regular intervals; weekly liaison meetings have been held; the Internal Security Forces (ISF) have participated in review and analysis activities, in close tandem with investigators; and a representative of the office of the Lebanese Prosecutor-General has participated in the preparation of interviews of Syrian suspects.

13. The Commission has had an intentional strategy to hand over, step by step, the findings and results from its efforts to the Lebanese authorities, so as to strengthen their ownership of the course of the investigation. There have also been an increased number of joint operations for the same purpose and to enhance transparency.

14. From 7 October to 10 December 2005, 52 witness statements, 69 investigators' notes and eight suspect statements were issued. Three searches were conducted and seven exhibits were obtained. A total of 37,000 pages of documents have been entered into the case file. Fourteen investigators from 10 different Member States have been involved in the Commission's investigative work, as well as a number of external experts.

15. At the time of the renewal of its mandate at the end of October, the Commission's investigative team was consolidated and supplemented by other expertise in research/analysis and electronic database management. The close association of Interpol has continued without change. The support team was supplemented to provide a broader range of language and related services to investigators. At the present time, the Commission has a total of 93 personnel. Partnerships with sister organizations of the United Nations system and other international organizations, as well as the use of specialized inputs of national expertise, continue to reinforce the support platform for the mission. The Commissioner again acknowledges with gratitude their contributions.

16. The Commission, in full agreement with the Lebanese authorities, reiterates its view that, to investigate a case of this complexity, many months of work are needed to ensure that all lines of enquiry have been exhausted in a thorough manner. It is through the convergence of multiple avenues of enquiry that patterns emerge and begin to focus on the most critical elements.

17. The Commission continues to follow traces and leads developed from the previous months of investigation regarding both Syrian and Lebanese suspects and their associates, witnesses, evidence obtained from the crime scene regarding the nature and type of explosives used in the assassination, and information about the other evidence found at the crime scene, as well as about individuals closely associated with the events of 14 February 2005.

18. To date, UNIIIC has interviewed and obtained the statements of 19 suspects. Analysts are in the process of reviewing those statements, focusing on any significant issues or leads that can be identified, for the purpose of cross-checking those issues and leads with other statements. One of the specific areas of focus is

information related to the planning of the assassination, including locations, dates, times and participants in meetings. The analysis also reviews the telephone contacts of the 19 suspects immediately prior to, during and immediately after the assassination. This cross-checking process is designed to facilitate a comprehensive and coherent testing of the credibility of sources and the reliability of information collected. This process will help the Commission to develop a better picture of how the events leading up to and immediately following the assassination evolved, including the people involved and their contacts.

19. The Commission is also in the process of reviewing all witness statements to pinpoint the measures which need to be taken — whether through further interviews, telephone analysis, or other evidentiary means — in order to corroborate those statements or pursue open leads. With regard to the major issues identified in the investigation, analysts are cross-matching all statements and other evidence in UNIIIC files to determine which of those issues require specific follow-up action.

20. To that end, UNIIIC is developing a tracking database useful to investigators and analysts as a research tool for systematically examining suspect and witness statements. The database will create reports on the significant issues ("threads") covered in the statements, for quick recovery in the course of re-interviewing existing suspects and witnesses and introducing future evidence.

A. Suspects

21. UNIIIC, in close cooperation with the Lebanese judicial authorities, has to date identified 19 individuals as "suspects" in this investigation, indicating that, based on the evidence accumulated to date, there is reason to believe that those individuals may have been involved in some way in the planning or execution of the crime or engaged in deliberate attempts to mislead the investigation as to its perpetrators. Those individuals have been advised of their status as suspects and are presumed innocent until proven guilty after trial. When interviewed, they have been accorded the rights that suspects enjoy under Lebanese law.

22. The Commission has continued to investigate the evidence against individuals identified as suspects by cross-checking their statements with those of other witnesses and evaluating those statements against other evidence collected in order to assess their credibility. This is a continuing process in view of the fact that, over the steady evolution of an investigation of this complexity, new evidence, new leads and new witnesses come to light that necessitate careful corroboration and cross-matching against the totality of the accumulation of evidence.

1. Lebanese suspects

23. As set out in the previous report of the Commission (S/2005/662, para. 174), on 30 August 2005 the Lebanese authorities detained four high-level officials of the Lebanese security and intelligence services pursuant to arrest warrants issued by the Lebanese Prosecutor-General. Those four individuals remain in custody. They have not been re-interviewed in the past seven weeks, pending the continuing collection and analysis of evidence about their involvement in the crime.

24. The Commission has continued to investigate Lebanese individuals about whom there are strong indications that they were involved in or may have further

crucial information about the assassination. As noted in the previous report (S/2005/662, paras. 208-214), the role of Sheikh Ahmed Abdel-Al of Al-Ahbash and his associates remains a critical line of inquiry in the light of a pattern of telephone contacts and associations. The Commission has continued to investigate those associates, as well as links between Al-Ahbash and a number of key suspects. Interviews have focused on family members whose telephone contacts and professional associations indicate close links to the suspect Mustapha Hamdan and other Lebanese officials.

2. Syrian suspects

(a) High-ranking Syrian officials

25. Based on the Commission's request of 4 November 2005 to interview six high-ranking Syrian officials, the Commission and a representative of the Foreign Ministry of the Syrian Arab Republic entered into an agreement that the Commission would interview initially five Syrian officials at the premises of the United Nations Office at Vienna. It was further agreed that Lebanese legal procedures would apply to those interviews.

26. Pursuant to that agreement, between 5 and 7 December 2005 five Syrian officials were interviewed as suspects. Each interview was conducted in the presence of one Syrian and one international lawyer and a sworn international interpreter. After the interviews, the interviewees signed their statements and DNA samples were taken from them. The questioning of those individuals touched on a broad range of issues related to the evidence that the Commission had gathered in its investigation. Statements made by two of the suspects indicated that all Syrian intelligence documents concerning Lebanon had been burned. It was also confirmed, by a letter transmitted to the Commission from the Head of the Syrian Special Investigation Commission, Judge Ghada Murad, dated 8 December 2005, that no material regarding the assassination of Mr. Hariri had been found in Syrian intelligence archives. Those matters require further investigation by the Commission.

(b) Mr. Zuhir Ibn Mohamed Said Saddik

27. Mr. Saddik initially came forward as a confidential witness to UNIIIC with detailed information about the assassination of Mr. Hariri (see S/2005/662, paras. 104-116). Based on statements he made to the Commission, he was later determined to be a suspect in connection with the investigation (see S/2005/662, para. 112). On 12 October 2005, an international arrest warrant was issued for Mr. Saddik, who was residing in France, at the request of the Lebanese Government, which also requested his extradition. Mr. Saddik was arrested by the French police on 16 October 2005. UNIIIC has since submitted requests through the Lebanese Government to the French authorities to obtain permission to interview Mr. Saddik, who remains in French custody. Arrangements are being made with the French authorities for conducting that interview.

28. In order to further investigate Mr. Saddik's statements about the planning and execution of the crime, the Commission obtained DNA samples from Mr. Saddik, as well as from his wife, children and brothers-in-law. Those samples were analysed to determine whether there was a match with either evidence from an apartment in Al-

Dahiyye, Beirut, in which Mr. Saddik stated he attended planning meetings, or evidence retrieved from the crime scene. The results of those comparisons were negative.

B. Sensitive witnesses

29. As in any criminal investigation, the information provided by sensitive witnesses with personal knowledge of the planning and organization of the crime and its perpetrators is essential. The previous report detailed some of the relevant information that had been provided to UNIIIC by a number of such witnesses (see S/2005/662, paras. 96-117). Those witnesses often find themselves in grave danger due to the nature of the criminal organizations about whom they are providing information.

1. Mr. Hussam Taher Hussam

30. Since the release of the previous report, the identity of one such previously confidential source has been disclosed. That source, Hussam Taher Hussam, has recently appeared on Syrian television withdrawing his prior testimony to UNIIIC and claiming that this testimony, which implicated high-level Syrian officials in the assassination, had been coerced. His appearance on Syrian television was apparently at the behest of the Syrian Judicial Commission charged with investigating the Hariri assassination. The UNIIIC investigation into Mr. Hussam's current claims is continuing. The Commission has learned that, before his current trip to the Syrian Arab Republic, Mr. Hussam provided to close friends an account of the assassination that was similar to the account he provided to UNIIIC. The Commission has also received credible information that, prior to Mr. Hussam's recent public recantation of his statement to UNIIIC, Syrian officials had arrested and threatened some of Mr. Hussam's close relatives in the Syrian Arab Republic. Preliminary investigation leads to a conclusion that Mr. Hussam is being manipulated by the Syrian authorities, raising serious questions about whether the Syrian Judicial Commission is committed to conducting an independent, transparent and professional investigation into the crime.

2. New witnesses

31. UNIIIC has also been approached by a number of new witnesses with potentially critical information about the assassination. Those new sources of information have been interviewed in recent weeks and, in coordination with the Lebanese authorities, UNIIIC is further investigating and corroborating their information. Given that their information is still in the process of being evaluated and the need to protect their identities to ensure their safety, the present report does not detail the information they have provided.

32. In late October 2005, the Commission was approached by another new witness, who has submitted a comprehensive and coherent statement regarding plans to assassinate Mr. Hariri. The witness has been assessed to be credible and the information he has submitted to be reliable. The information is detailed and has undergone cross-checking measures, which have so far confirmed the information in the statement. The statement cross-corroborates other independent information gathered by the Commission.

33. The detailed information points directly at perpetrators, sponsors and organizers of an organized operation aiming at killing Mr. Hariri, including the recruitment of special agents by the Lebanese and Syrian intelligence services, handling of improvised explosive devices, a pattern of threats against targeted individuals and planning of other criminal activities.

34. The statement from the witness strengthens the evidence confirmed to date against the Lebanese officers in custody, as well as high-ranked Syrian officers.

35. The investigation has also uncovered more specific information about the manner in which the Syrian security apparatus controlled and manipulated the security situation in Lebanon. For example, it was reported to the Commission that, after the assassination of Mr. Hariri, a high-level Syrian official supplied arms and ammunition to groups and individuals in Lebanon in order to create public disorder in response to any accusations of Syrian involvement in the Hariri assassination. The Lebanese authorities have opened a separate investigation into the planning of terrorist attacks in connection with that information.

C. Crime scene

36. A critical element in an investigation of an explosion of the magnitude of 14 February 2005 is the minute examination and analysis of the crime scene. This includes forensic analysis of items retrieved after the explosion, which may provide clues as to the nature and type of explosion and the explosive(s) used, as well as the means by which it was detonated. It also involves interviews of witnesses who may have crucial information about events at the crime scene either before, during or after the crime, and interviews of individuals who may appear to have been acting suspiciously in its vicinity. The Commission has continued to pursue each of those avenues with the purpose of reconstructing as comprehensive and accurate a picture as possible about the events which led up to and followed the explosion of 14 February 2005.

37. In October 2005, UNIIIC handed over approximately 600 exhibits from the crime scene to the office of Prosecutor-General of Lebanon, after forensic examination. Some exhibits had originally been collected from the Prosecutor-General's office at the beginning of the investigation. The exhibits include hundreds of vehicle parts.

1. Enquiry into activation mechanism

38. The previous report (see S/2005/662, paras. 159-169) provided a comprehensive review of the analysis of the crime scene. In the course of that examination, many electronic parts were recovered. Three particular items were set aside for intensive expert scrutiny to ascertain whether they could shed light on the activation mechanism of the device used to trigger the explosion. This line of enquiry has included cross-matching of results of this analysis with exhibits recovered at the crime scene which have been confirmed as being part of a Mitsubishi Canter truck.

39. As a result of this examination, it was concluded that one electronic part originated from a laptop personal computer: because it was not severely damaged, it could not have been close to the site of the explosion itself and thus could not be

part of an activation mechanism. The origin and function of the two other electronic parts, which were heavily damaged, could not be determined: no conclusion could be drawn about their connection to an activation mechanism for the explosion.

2. Explosives (residues)

40. The previous report (see S/2005/662, para. 145) noted that the confused measures taken by the Lebanese authorities immediately following the explosion made it difficult to identify with certainty the type of explosives used in the blast. With assistance from an expert on post-blast scene investigations and proper laboratory examinations, the Commission has received expert input identifying the type of explosive used in the blast. The Commission will undertake further investigative measures based on this forensic expertise in order to track down the origin of the explosive.

3. Mitsubishi truck

41. As noted in the previous report (see S/2005/662, paras. 132-134), CCTV video footage from the HSBC bank overlooking the crime scene showed a Mitsubishi Canter truck entering the area of the explosion shortly before the arrival of Mr. Hariri's convoy. During their search of the crime scene, the Netherlands forensic team recovered a piece of an engine block, among other vehicle parts. With the assistance of the Japanese forensic team, that engine block was identified as a part of a vehicle stolen from Japan on 12 October 2004. The Internal Security Forces confirmed that they had no record of any vehicle in Lebanon with either the chassis number or engine numbers identified on the recovered vehicle parts.

42. At the Commission's request, the Japanese national police opened an investigation into the stolen vehicle. They concluded that the vehicle had been shipped, either in whole or in parts, from Japan to another country, most likely the United Arab Emirates (UAE). Since September, UNIIIC has worked closely with both the Japanese and United Arab Emirates authorities to trace the movements of the vehicle, including reviewing shipping documents from the United Arab Emirates and, with the assistance of the United Arab Emirates authorities, attempting to locate and interview the consignees of the container in which the vehicle or its parts is believed to have been shipped. This line of enquiry remains in its early stages.

4. Road works/excavations

43. As previously noted (see S/2005/662, paras. 129-131), witnesses have provided information regarding excavation work in the area of the St. George Hotel during the days immediately preceding the blast, despite the fact that no official work permits were issued for such excavation work during that period. Some witnesses have attested that members of the Lebanese security forces were present in the area of those excavation works. Those witnesses appear to the Commission to be consistent and credible in their recollection of road works being carried out in that area during the relevant time period. That line of enquiry is significant.

5. HSBC video

44. The Commission has conducted a line of enquiry, in cooperation with the Lebanese Internal Security Forces, regarding a group of individuals who appeared to be acting suspiciously shortly before the explosion in front of the HSBC Bank near

the St. George Hotel, based on a close examination of the HSBC CCTV footage taken on 14 February 2005. Although the Commission has concluded that none of the individuals interviewed to date were involved in any activity in connection with the explosion, in order to ensure that that track is fully exhausted some additional interviews will be necessary.

6. Unidentified human remains

45. As noted in the previous report (see S/2005/662, para. 163 (d)), a small amount of the human remains of an unidentified person was found at the crime scene. Analysis of that evidence continues to be undertaken by the Commission with the assistance of specialized forensic experts.

D. Background to the crime (including new leads)

46. As in any criminal inquiry of this nature, the investigation has sought a comprehensive understanding of all possible perpetrators, modus operandi and motives. To that end, the Commission is in the process of reviewing a substantial volume of material from Government agencies regarding their surveillance operations; interviewing witnesses to examine more thoroughly the relationships between Mr. Hariri and various significant individuals; continuing the investigation into Mr. Abu Adass; enhancing telephone analysis; and pursuing any leads regarding potential motives or perpetrators. There is a steady pattern of converging circumstantial evidence related to motive for the crime which bears directly on the increasingly tense atmosphere which culminated in Mr. Hariri's decision to step down as Prime Minister in late 2004 (see S/2005/662, para. 94). Also, the Commission has not found any significant evidence that alters the conclusion of probable cause which is set out in the previous report concerning the involvement of top-ranked Syrian and Lebanese officials (see S/2005/662, paras. 118-124).

1. Impact of Syrian and Lebanese security and intelligence services

47. The previous report noted that, given the extent to which the Syrian and Lebanese intelligence and security services infiltrated daily Lebanese life, specifically the manner in which they monitored Mr. Hariri's movements, there was little probability that a third party could have undertaken the necessary surveillance of Mr. Hariri and maintained the resources, logistics and capacity needed to initiate, plan and commit a crime of that magnitude, without the knowledge of the Lebanese security services and their Syrian counterparts (see S/2005/662, paras. 123 and 124).

48. The Commission has obtained additional evidence of the manner in which these entities controlled Lebanese society through a number of Lebanese agencies, providing further corroboration for this assessment. Although analysis of that material is still under way, the accumulated evidence presents a stark picture of how those various agencies — including Military Intelligence, the Sûreté Générale and the ISF — undertook widespread surveillance operations within Lebanon, of which the surveillance of Mr. Hariri and the monitoring of his telephone lines (see S/2005/662, paras. 118, 123 and 125-128) were only a small part.

(a) Intercepted telephone conversations (military intelligence)

49. As previously indicated (see S/2005/662, paras. 125-128), the Technical Directorate of Lebanese military intelligence services conducted extensive wiretapping of Mr. Hariri's telephone lines over a sustained period: the transcripts were forwarded on a daily basis to high-level Lebanese and Syrian officials, including Raymond Azar, Jamil Al-Sayyed and Rustum Ghazali, among others.

50. In November 2005, the Commission submitted a request to the Lebanese military intelligence services for a complete and comprehensive index of the wiretapped telephone conversations of Mr. Hariri for the period October 2004-March 2005. In response, UNIIIC received an incomplete portion of the transcripts of telephone intercepts (consisting of approximately 14 pages) of Mr. Hariri and his household. The Commission further learned that the wiretapping operation included the surveillance of numerous public figures and high-level officials. The archives have been erased, but measures are being undertaken in order to restore the deleted data for further review.

51. The analysis of those transcripts will provide, at a minimum, a comprehensive picture of the manner in which the Lebanese security and intelligence apparatus conducted surveillance on high-level officials in Lebanon, which was in turn shared with their Syrian counterparts, and particularly the extent to which both the Lebanese and Syrian security services were closely monitoring Mr. Hariri.

(b) Intercepted telephone conversations (Sûreté Générale)

52. The Commission obtained a copy of an intercepted telephone conversation, which was quoted in part in the previous report (see S/2005/662, para. 95), between Mr. Ghazali and a prominent Lebanese official. In October, the Commission obtained a CD-ROM of transcripts of telephone conversations which had been intercepted by the Intelligence Section of the Sûreté Générale. Investigation has revealed that the Sûreté had conducted an interception operation covering numerous high-level Lebanese officials and prominent figures. The CD-ROM under analysis contains intercepted conversations for the period January 2003-June 2005.

53. With the help of investigators from the ISF, approximately 26,000 pages of conversations have been reviewed and screened: conversations for the period December 2004-March 2005 have been summarized. A small cluster of interceptions have been identified as significant and have been cross-matched against other information gathered by the Commission. Some of these interceptions, such as a call from the mother of Ahmad Abu Adass, provide useful background evidence; other conversations provide significant insight into the scope of involvement of key individuals in the assassination, as well as the awareness of the Lebanese authorities of the movements and conversations of prominent Lebanese figures.

(c) ISF records

54. The former Director-General of the Internal Security Forces, General Ali Al-Hajj, was arrested by the Lebanese authorities at the suggestion of the Commission on 30 August 2005 for conspiracy to commit murder in connection with the assassination of Mr. Hariri (see S/2005/662, para. 174). On 30 August, investigators from the Commission and Internal Security Forces officers conducted a search of the private residence of General Al-Hajj. During that search, investigators

discovered several electronic media, including removable data tapes, stored in a safe. A preliminary examination of those electronic files and accompanying documentation revealed that they comprised classified intelligence reports on a wide variety of topics which were obtained by General Al-Hajj from the Internal Security Forces and illegally kept by him.

55. With the assistance of officers of the Internal Security Forces, the Commission has completed a review of those files. An initial screening isolated 1,000 files containing information significant to the investigation and deemed worthy of in-depth review. Analysis of those files is continuing. Those materials provide extensive background information on the political and security situation in Lebanon during the period before the assassination, as well as the Internal Security Forces investigation into the crime. In particular, the files reveal the degree to which the Lebanese security and intelligence institutions were intertwined with and influenced by their Syrian counterparts.

2. "Damascus Protocol"

56. As noted in the previous report, the UNIIIC investigation confirmed that, during the period prior to the assassination, there was growing tension between Mr. Hariri and senior Syrian officials, including Syrian President Bashar Al-Assad, (see S/2005/662, para. 25). The previous report pointed to a meeting held on 26 August 2004 between Mr. Hariri and President Al-Assad, which appeared to bring that conflict to a head. Based on investigation of further information received about that tension, the Commission has learned of the alleged existence of an informal oral agreement between Syrian top-level officials and Mr. Hariri, which set out what the latter was allowed to do and not to do in relation to Syria (referred to as the "Damascus Protocol").

57. A further indication that such an agreement exists derives from an intercepted phone call between Mr. Ghazali and Mr. Hariri that took place on 3 August 2004, at 1030 hours:

> "Ghazali: Your Excellency, in follow-up to the meeting that took place and the agreement that we reached concerning the truce and the exchanged political campaigns between you and the President, I have been reading in the *Future* newspaper this (...) "officials protect the corruption". This talk is like a violation of the truce. Why is this subject, Your Excellency? Didn't we agree to stop the subject?
>
> Hariri: (...) statement was all over the newspapers, and in fact I was first ...
>
> Ghazali: I would like to ask a question, Your Excellency, are you still committed to the agreement?
>
> Hariri: Of course."

58. The Commission will undertake further investigative efforts to elucidate the basis for the agreement and its implications regarding motivations for and execution of the crime.

3. Ahmad Abu Adass

59. As set out in the previous report (see S/2005/662, paras. 180-182), the Commission's investigation into the whereabouts of Ahmad Abu Adass was hindered by the unavailability of two important witnesses, Ziad Ramadan and Khaled Midhat Taha. Further investigation has revealed that both individuals, who were close associates of Mr. Abu Adass, left Lebanon for the Syrian Arab Republic before the Commission could interview them. Accordingly, the Commission has submitted requests to the Syrian authorities for detailed information about Mr. Taha's whereabouts, in particular his travel records into and out of the Syrian Arab Republic. More recently, on receiving media information that Mr. Ramadan had been imprisoned in the Syrian Arab Republic, the Commission also submitted requests to Syrian authorities on 4 November 2005 for information about the reason for Mr. Ramadan's arrest and to interview him.

60. The Commission has not yet received any further details from the Syrian authorities regarding Mr. Taha, other than confirmation that he had entered the country.

61. Regarding Mr. Ramadan, the Syrian Judicial Commission advised UNIIIC that it had interrogated him on 8 November 2005 regarding his relationship to Mr. Abu Adass. The Commission then arranged through the Syrian authorities to interview Mr. Ramadan. That interview took place on 1 December 2005.

62. In the interview, Mr. Ramadan stated that he met Mr. Abu Adass at the end of 2002, when they were both employed at the same computer company. Mr. Abu Adass had told him about the individual named "Mohammed" whom Mr. Abu Adass had befriended at the mosque, information which had been relayed to both the Lebanese authorities and UNIIIC by Mr. Abu Adass's mother. Upon learning from Mr. Abu Adass's family that he had left home on 16 January 2005 with an unknown man and had subsequently disappeared, Mr. Ramadan immediately wondered whether that person was "Mohammed". Mr. Ramadan did not know any of Mr. Abu Adass's other friends or associates and could shed no light on Mr. Abu Adass's whereabouts or the identity of "Mohammed". He confirmed that Mr. Abu Adass did not have the ability to drive a car and that there was no Internet connection in Mr. Abu Adass's house.

63. Mr. Ramadan stated that he left Lebanon for the Syrian Arab Republic in March 2005 because he was Syrian in light of allegations of the implication of the Syrian Arab Republic in the assassination of Mr. Hariri, and also because he was aware that Lebanese military intelligence was looking for him. Mr. Ramadan then voluntarily surrendered to the Syrian authorities on 21 July 2005 upon learning that they were looking for him. According to Mr. Ramadan, he has been arrested and detained without charges since that date, and he has been interviewed six times by Syrian intelligence. Not only has UNIIIC yet to receive from the Syrian authorities any records of those interviews with Syrian intelligence, but, in the course of interviewing Syrian officials in September 2005, UNIIIC investigators specifically inquired as to whether the Syrian Arab Republic had conducted any investigation into the Hariri assassination. They were informed then that the Syrian Arab Republic had not. It was only in December 2005, through its interview of Mr. Ramadan, that UNIIIC learned that Mr. Ramadan, obviously a figure of interest in the Hariri investigation, had been in custody in the Syrian Arab Republic since July 2005 and had been interviewed six times by Syrian intelligence.

64. Although the interview of Mr. Ramadan provided some important corroboration for information UNIIIC already had in its possession regarding Mr. Abu Adass, that aspect of the investigation cannot be concluded without locating and interviewing Mr. Taha and before identifying, locating and interviewing "Mohammed".

4. Telephone analysis

65. As previously noted (see S/2005/662, para. 192), telephone analysis has been a central aspect of the present investigation. Since October 2005, the Commission has concentrated on organizing the telephone data received into manageable databases so that it can be more easily accessible for future analysis. That process has involved compiling over 400,000 records from 195 different files (based on requests for telecommunications data) into one central database. Another database contains over 97 million telecommunications records of all the calls in Lebanon between 7 and 21 February 2005. Those two databases will permit a standardized search of any relevant telephone number and its contacts in an efficient manner which will facilitate future telephone analysis projects.

66. At the same time, the Commission has analysed the telephone calls of specific individuals, in preparation for witness and suspect interviews and to corroborate source information. Those projects will undoubtedly become more complex now that the telephone databases are complete. In addition, at the request of the Lebanese authorities, UNIIIC is in the process of comparing the telephone numbers that the Lebanese authorities have collected in the course of investigating other explosions that occurred in Lebanon in the months before and after 14 February 2005 with the telephone numbers in UNIIIC databases in order to determine if there are any links between those other explosions and the Hariri explosion that merit further inquiry.

5. Prepaid card used to contact Al-Jazeera

67. The identification of the user of a prepaid card which contacted Al-Jazeera on the evening of 14 February 2005 was determined to be a significant lead, in the light of that telephone call and the prepaid card's other telephone contacts (see S/2005/662, paras. 199-203). The user of that card has since been identified and interviewed by the Commission and appears to have credible explanations for those telephone contacts. However, further investigation to corroborate that information will be necessary.

6. Financial transactions

68. As stated in the previous report to the Security Council (see S/2005/662, para. 217) fraud, corruption and money-laundering could also have been motives for individuals to participate in the operation that ended with the assassination of Mr. Hariri. In the course of the investigation, the Commission has followed threads leading into the Bank Al-Madina collapse in mid-2003, including links to Lebanese and Syrian officials as well as to Mr. Hariri.

69. It is not for the Commission to divert its attention into any parallel investigation of fraud, corruption or money-laundering that may have taken place. However, the Commission remains aware that those matters may shed light on the motives of a number of individuals who are within the scope of its own investigation, especially since the Commission has received information that

Mr. Hariri had declared that he would take measures to investigate the Bank scandal more thoroughly if he returned to power.

70. The account records of more than 120 individuals have been collected and are the subject of further analysis and investigative measures.

7. Sûreté Générale

71. Since the last report to the Security Council, the Commission has received information that a suspect, the former Director of the Sûreté Générale, operated an illegal fund out of his office which financed secret operations and might have been used to finance the assassination of Mr. Hariri. Based on that information, investigators recovered 21 binders of documents, records and other evidence from the Sûreté Générale and questioned several witnesses. The materials continue to be analysed and cross-checked with other lines of enquiry that remain open in the investigation.

8. Other explosions

72. The focus of the Commission's work, from its inception, has been to assist the Lebanese authorities in their investigation into the explosion of 14 February 2005. Other explosions which occurred in Lebanon before and since that explosion have not been directly part of the UNIIIC inquiry. However, at the request of the Lebanese authorities, UNIIIC has compared telephone numbers the Lebanese authorities have collected in the course of investigating those other explosions with telephone numbers in the UNIIIC database to determine if there are any common links in the telephone contacts that can be identified and investigated. Further investigation should explore any other such common links and patterns between the Hariri explosion and those other explosions.

9. Other lines of enquiry still to be pursued

73. The Commission has not had time, in the short period available since the end of October 2005, to investigate meaningfully the following issues that were raised in the previous report:

- The nature of, and activities in, the camp in Zabadane where witness information indicates the Mitsubishi Canter truck was seen shortly before the explosion (see S/2005/662, paras. 110 and 111);
- Whether anyone other than Mr. Hariri was affected by the alleged presidential decree of November 2004 mandating a reduction in security personnel for an individual like Mr. Hariri (see S/2005/662, para. 119);
- Identification, location and further contacts related to the ring of prepaid telephone cards, including eight significant telephone numbers and 10 mobile telephones, which are believed to have been used to organize surveillance of Mr. Hariri and carry out the assassination (see S/2005/662, paras. 121 and 148-152);
- Documentation of orders to Internal Security Forces personnel to keep Mr. Hariri under surveillance from the end of January 2005 to the beginning of February 2005 (see S/2005/662, para. 125);

- The reason for the delay of Mr. Hariri's motorcade at a T-junction shortly before the explosion (see S/2005/662, para. 142);
- The cause of the apparent interference with telecommunications in the crime scene area on 14 February 2005 (see S/2005/662, para. 157);
- Identification of the time or origin of the reported fourth call to *Al-Jazeera* on 14 February 2005 (see S/2005/662, para. 194).

III. Syrian cooperation with the Commission

74. In its previous report to the Council, the Commission reported on difficulties it was encountering with regard to the cooperation being extended by the Syrian authorities. Serious delays in the investigation had accrued to cooperation in form rather than in substance. The Council addressed that matter in its resolution 1636 (2005), in particular section III thereof. The Council endorsed the Commission's conclusion that it was incumbent upon the Syrian authorities to clarify a considerable part of the questions which remained unresolved. The Council decided, in this context, that:

(a) The Syrian Arab Republic must detain those Syrian officials or individuals whom the Commission considers as suspected of involvement in the planning, sponsoring, organizing or perpetrating of this terrorist act, and make them fully available to the Commission;

(b) The Commission shall have vis-à-vis the Syrian Arab Republic the same rights and authorities as mentioned in paragraph 3 of resolution 1595 (2005), and the Syrian Arab Republic must cooperate with the Commission fully and unconditionally on that basis;

(c) The Commission shall have the authority to determine the location and modalities for interview of Syrian officials and individuals it deems relevant to the inquiry.

75. The Commission, fully conscious of the need to proceed in a timely manner with its enquiry, has endeavoured to implement the decision of the Council at the earliest opportunity.

76. Upon his return to Beirut to continue the work necessary to advance the investigation under the mandate extended until 15 December 2005, the Commissioner immediately continued his contacts with the Syrian authorities to elicit their full and unconditional cooperation.

77. On 4 November 2005, in a communication addressed to the Minister of Foreign Affairs of the Syrian Arab Republic, the Commissioner summoned six Syrian officials for interviews at UNIIIC Headquarters at Beirut during the period 15-17 November 2005. The Commissioner requested information on the whereabouts of another Syrian citizen, Ziad Ramadan (see paras. 59-64 above), whom it wished to summon as a witness. The Commission indicated also its wish to interview the Minister of Foreign Affairs at the United Nations Office at Geneva on 23 or 24 November 2005. The Commission requested access to Syrian military intelligence archives regarding documents related to Lebanon, covering the period February and March 2005. The Commission further requested the Syrian authorities

to relay to it any evidence or information on who had planned and/or carried out the assassination of Mr. Hariri.

78. The Minister of Foreign Affairs of the Syrian Arab Republic responded to the communication of the Commissioner on 7 November 2005. He indicated that the Syrian authorities would wish to launch on their part a judicial investigation into the assassination of Mr. Hariri. The President of the Syrian Arab Republic had signed, on 29 October 2005, legislative decree No. 96, which established a judicial commission headed by the Prosecutor General of the Republic. The Syrian commission would start its investigation with Syrian nationals, either civilians or from the military, on all issues concerning the mission of UNIIIC and would cooperate with UNIIIC and the Lebanese judiciary on all issues relevant to the procedures of the investigation. The Foreign Minister indicated that the Syrian commission would be in direct contact with UNIIIC to cooperate in order to uncover the truth of Mr. Hariri's assassination and that reaching a framework with UNIIIC would help achieve the required cooperation.

79. On 8 November 2005, the Head of the Syrian Special Investigation Commission, Judge Ghada Murad, invited UNIIIC to the Syrian Arab Republic to explore the best ways and means of cooperation between UNIIIC and the Syrian Commission. She further suggested that a memorandum of understanding be signed in that regard.

80. Also on 8 November 2005, the Commissioner responded to the communications of the Minister of Foreign Affairs and the Head of the Syrian Special Investigation Commission. He indicated that the Commission took note of the establishment of the Syrian judicial commission and that it looked forward to receiving any information and/or advice the Government of the Syrian Arab Republic might wish to share with it as a result of the Commission's work, as well as the archival and other documents requested in his letter of 4 November 2005.

81. The Commission noted, however, that the establishment of the Syrian judicial commission could not invalidate or substitute for the request the Commission had set out in its letter of 4 November 2005. The Commissioner expected the Syrian authorities to cooperate fully and unconditionally. In conformity with Council resolution 1636, section III, paragraph 11 (c), the Commission had determined the date and venue of the interviews of a number of Syrian officials. In view of the urgency of the matter, it was critical that the Commission received a reply before 10 November 2005 in order to facilitate the logistical arrangements related to the interview in Beirut and the meeting in Geneva.

82. On 9 November 2005, the Commissioner received a communication from the Minister of Justice of the Syrian Arab Republic, Judge Mohammed Al-Ghofri, proposing the signature of a negotiable protocol of cooperation. The Minister indicated that the Syrian side considered that the Special Investigation Commission created by legislative decree No. 96 was the Syrian body which was exclusively mandated to cooperate and coordinate with UNIIIC. The Special Commission had carried out an interrogation of the suspected persons and had forbidden them to leave the country in order to make them available when called by UNIIIC. The Minister stated that paragraph 11 (c) of Council resolution 1636 did not necessarily mean that the venue had to be outside the Syrian Arab Republic, but rather it could be the Syrian Arab Republic or any other place that UNIIIC might choose (UNDOF headquarters, for example). He indicated that the interrogation of the suspected

persons and the Syrian witnesses might be carried out in a third venue in order not to provoke any negative feelings between the Syrian and the Lebanese people. Therefore, and for the sake of cooperation, the Syrian side considered it necessary to sign a cooperation protocol between the Syrian Government and UNIIIC, specifying the mechanism for executing resolution 1636. The protocol should be the authority that regulated cooperation between the Government of the Syrian Arab Republic and UNIIIC.

83. On 10 November 2005, the acting Commissioner of UNIIIC sent a communication to the Foreign Minister of the Syrian Arab Republic reminding him that the Commission had determined 10 November 2005 as the deadline for receiving a reply to the Commission's requests of 4 and 8 November 2005. On the same day, the Permanent Representative of the Syrian Arab Republic to the United Nations advised that he was unable to forward that correspondence to the Foreign Minister because the correct party that was dealing with all matters related to the investigation was the Syrian judicial commission.

84. On 18 November 2005, at the official request of the Legal Adviser of the Ministry of Foreign Affairs of the Syrian Arab Republic, the Commissioner agreed to meet with two representatives of the Ministry in Barcelona. The issues discussed focused on the requested interviews of Syrian officials, the venue for the interviews and the proposed protocol for cooperation. The Syrian side promised to forward an official answer in the coming days.

85. On 21 November 2005, the Permanent Representative of the Syrian Arab Republic presented to the President of the Security Council a note verbale regarding the implementation of Council resolution 1636 (2005). The note verbale was circulated to members of the Council on 22 November 2005.

86. On 22 November 2005, the Legal Adviser of the Ministry of Foreign Affairs of the Syrian Arab Republic contacted the Commissioner to request more time to consider the matters discussed in the Barcelona meeting. The Commissioner indicated that he would appreciate receiving a definitive response in the coming days. In a subsequent telephone call to the Legal Adviser on 24 November 2005, the Commissioner reiterated the need for a prompt response, no later than 25 November 2005. On 25 November 2005, the Commissioner received a positive reply.

87. On 5 and 7 December 2005, senior Syrian officials were interviewed at the United Nations Office at Vienna.

IV. Conclusions and recommendations

88. The Commission's conclusions set out in its previous report (see S/2005/662, sect. VI) remain valid. In the interval since the presentation of that report, the investigation has continued to develop multiple lines of enquiry which, if anything, reinforce the conclusions of the previous report.

89. It is important that the steady pace of the substantive lines of enquiry be maintained. The process of convergence of evidence and the careful cross-checking and review of testimony requires time. Extraneous events cannot — and should not — be used to distract the Commission from the mandate given to it by the Security Council to help identify the perpetrators, sponsors, organizers and

accomplices in the terrorist act which was perpetrated in Beirut on 14 February 2005.

90. The next steps to be followed in the investigation and in the work of the Commission to assist the Lebanese authorities are clear: to continue to follow existing lines of enquiry on all aspects of the case; to assess and follow-up new elements which are brought to the Commission's attention; to close out any lines of enquiry which no longer have a direct bearing on the case; to receive at all times the full and unconditional cooperation of the Syrian authorities; and to report on progress to the Security Council at regular intervals. Delays in proceeding with any one of those elements will inevitably have an impact on all of them. In that regard, it would be helpful if a number of Member States from whom specific assistance has been solicited could respond to the Commission's requests.

91. The Commission maintains the view expressed in its earlier report that there were a number of personal and political motives for the assassination of Mr. Hariri. That view has been corroborated, in several respects, by evidence and testimony received since October 2005.

92. The Commission and the Lebanese judicial and security authorities have further enhanced their cooperation in recent weeks in the pursuit of their common objective: to uncover the truth. The Lebanese authorities have the will and a growing capacity to carry forward the investigation in Lebanon. However, given the broader implications of several lines of enquiry, it is essential that the international community continue to support the investigation both inside Lebanon and beyond its borders so that all aspects of the case may be thoroughly investigated and brought to a conclusion.

93. Council resolution 1636 (2005), in particular section III thereof, remains for the Commission a clear and unambiguous mandate for the work of the investigation. In that regard, the Commission has the authority, in its pursuit of witnesses and testimony outside the State of Lebanon, to ask for information and to receive it, to summon named witnesses and suspects (and if need be to request their detention or arrest) and to request evidentiary materials, free from any condition, pressure or interference in that process. The Commission cannot, however, stop the clock: it is equally important that cooperation with the Commission be displayed in a timely and unambiguous manner.

94. The Commission is aware of the request, of the Government of Lebanon, dated 5 December 2005 and further to operative paragraph 8 of Council resolution 1636 (2005), to extend the work of the Commission for a further period. Given that its substantive lines of enquiry are far from being completed and the slow pace with which the Syrian authorities are beginning to discharge their commitments to the Council, the Commission recommends that there be such an extension for a minimum period of six months. Such a decision would avoid the inevitable disruptions to the substantive work of the Commission that result from shorter-term mandate renewals.

95. The Commission relies on the full and unconditional cooperation of the Syrian authorities in the next period of its enquiries so that all aspects of the case under investigation may be ascertained.

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General Assembly
Sixtieth session
Agenda items 14 and 108

Security Council
Sixtieth year

The situation in the Middle East

Measures to eliminate international terrorism

Identical letters dated 9 December 2005 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General and the President of the Security Council

I am writing with regard to yet another outrageous statement by the President of Iran, in which he cast doubt on the truth of the Holocaust and suggested that "the Zionists" be relocated to Europe.

On 1 November 2005, the General Assembly adopted a resolution on Holocaust remembrance (resolution 60/7), in which, among other items, it rejects "any denial of the Holocaust as an historical event, either in full or in part". Iran was included in the adoption by consensus of that resolution.

I would like to recall Iran's statement of 26 October 2005, in which it called for the eradication of Israel, another Member State. One would have thought this rhetoric belonged to a different era, yet I fear it represents something graver than simply rhetoric — it sheds light on the Government of Iran's policies and intentions vis-à-vis the State of Israel.

The statement this week further discloses the dangerous stance of this United Nations Member State against another United Nations Member State. I acknowledge with appreciation your prompt denunciation of this statement. I also recall condemnation by you, the Security Council and countless members of the international community of the President of the Iran's statement in October.

Iran's dangerous mix of Holocaust denial, direct and continuous support for terrorism, nuclear programme and ambitions, as well as its blunt incitement and confrontation against another United Nations Member State, are contrary to the Charter of the United Nations and the principles and ideals of this institution. Israel therefore urges the international community to take swift and strong action against Iran.

05-63613 (E) 121205

I should be grateful if you would arrange to have the text of the present letter circulated as a document of the sixtieth session of the General Assembly, under agenda items 14 and 108, and of the Security Council.

(*Signed*) Ambassador Dan **Gillerman**
Permanent Representative

United Nations S/2005/777

Security Council

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Twenty-seventh report of the Secretary-General on the United Nations Mission in Sierra Leone

I. Introduction

1. By its resolution 1610 (2005) of 30 June 2005, the Security Council extended the mandate of the United Nations Mission in Sierra Leone (UNAMSIL) for a final period of six months, until 31 December 2005. The present report provides an assessment of the situation in Sierra Leone as UNAMSIL departs, and an update on preparations for the establishment of the United Nations Integrated Office in Sierra Leone (UNIOSIL), as requested by the Security Council in its resolution 1620 (2005) of 31 August 2005.

II. Political developments

2. The political situation in Sierra Leone has remained calm and stable since my report of 20 September 2005 (S/2005/596). However, there are still a number of factors which pose potential threats to the security and political stability the country currently enjoys. These include the widespread destitution and disaffection, especially among the unemployed youth; corruption, which is still prevalent in the public sector; weaknesses in the judicial system; and resource constraints and other capacity shortfalls inhibiting the Government's ability to deliver services to the population.

3. Public expectations of possible peace dividends remain high, but there is a general perception of low Government responsiveness to the needs of the population. At the same time, the Government is still facing considerable challenges in putting together an effective strategy for communicating its vision and programmes to the public and in creating an environment conducive to effective participation of and closer collaboration with civil society and the private sector in enhancing democratic governance.

4. There have been signs of possible tensions as political parties begin to prepare for the national elections to be held in 2007. The two largest parties in the country, the ruling Sierra Leone People's Party and the All People's Congress, are both experiencing intra-party divisions, which have resulted in the emergence of splinter groups. A faction of the All People's Congress is challenging the party's elected leadership in the courts, while a prominent member of the Sierra Leone People's Party, Charles Margai, formed his own political party, known as the People's

Movement for Democratic Change, after his bid to be selected as the party's presidential candidate for the 2007 elections failed.

5. The Sierra Leone People's Party and the All People's Congress held their respective national conventions in September, to select their leaders and presidential candidates for the 2007 elections. The two parties selected the Vice-President, Solomon Berewa, and Ernest Bai Koroma, respectively, as their leaders and presidential candidates. The former Minister of Internal Affairs, Hinga Norman, who is in the custody of the Special Court for Sierra Leone, declared his candidacy for the leadership of the ruling party, but has since withdrawn. It appears that Mr. Norman still commands considerable influence among the former members of the Civil Defence Forces, which he led during the civil war.

6. UNAMSIL continued supporting the efforts to address the challenges identified above. The Mission is engaged in promoting inter-party dialogue as well as reconciliation and tolerance among the political parties. It has also encouraged the parties to pursue bi-partisan approaches to national issues in the legislature.

7. UNAMSIL is also helping the Government of Sierra Leone to resolve issues that have created tensions in communities, such as disputes over chiefdom boundaries. In a collaborative effort, the Mission, the Ministry of Local Government and Community Development and local government authorities and civil society groups have launched an ongoing mediation initiative aimed at settling outstanding disputes at the provincial and district levels.

8. Efforts to strengthen the Anti-Corruption Commission have included the addition of international personnel to the Commission. So far, the Commission has investigated corruption charges against six Cabinet Ministers. In November, the President, Ahmad Tejan Kabbah, appointed a new Chairman of the Anti-Corruption Commission following difficulties in relations between the former Chairman and several public bodies, including the legislature, which had impeded the work of the Commission. It is hoped that the change of leadership will enhance the effectiveness of the Commission. The Commission is, however, also plagued by serious resource constraints.

9. With respect to access to justice, as indicated in section X below, UNAMSIL has assisted the efforts to ease the backlog in court trials, and has supported training and capacity-building for court personnel, as well as the rehabilitation of prisons. More efforts, however, are required to address the challenges in these areas.

10. Organizational preparations for the 2007 elections, including the restructuring of the National Electoral Commission and the delimitation of constituencies, are ongoing. On 1 December, Parliament approved the composition of the Political Parties Registration Commission, which was created under the Political Parties Act of 2002. Both Government and international support for the electoral process has been encouraging. The Government has committed over US$ 8 million to the process, while international partners have established a basket fund to mobilize the remaining $18.4 million required to complete key electoral tasks, including voter registration.

III. Security situation

11. The overall security situation in the country remained stable during the period under review. The national security agencies have continued to acquit themselves satisfactorily since UNAMSIL transferred security primacy to them last year. The Sierra Leone police, in particular, have gradually developed their ability to contain and deal effectively with internal threats to security by performing their tasks without direct assistance from UNAMSIL troops. The short-term indicators regarding internal security are positive, with little probability of a return to civil conflict, while criminal activities are expected to remain at a manageable level.

12. There were three serious security incidents, which tested the capacity of Sierra Leone's security sector, during the period under review. On 7 November, the murder of two motorcycle transportation operators resulted in violent riots in Kenema. The motorcycle transportation operators are predominantly former combatants. The Sierra Leone police imposed a curfew until the following day and were able to bring the situation under control without assistance from UNAMSIL. Similar riots occurred in Koidu when another motorcycle transportation operator was killed in a traffic accident on 18 November. As in the Kenema case, the Sierra Leone police were able to effectively restore law and order in the town.

13. On 19 November, supporters of Charles Margai, the leader of the People's Movement for Democratic Change, disrupted a ceremony organized to commemorate the fifty-second anniversary of a college in Bo, where Vice-President Solomon Berewa was the guest of honour. The police were again able to bring the situation under control without the intervention of UNAMSIL.

14. The establishment of provincial and district security committees has created a framework for coordination between the Sierra Leone Office of National Security, the Sierra Leone police, the Republic of Sierra Leone Armed Forces and local authorities on security matters at the district level. The handling of the riots in Kenema referred to above, where the police and local security apparatus successfully activated all the existing mechanisms to bring the situation under control, illustrated the effectiveness of these security arrangements.

15. Nonetheless, the country's security structure, including the Office of National Security and the provincial and district security committees, still requires further assistance in capacity-building. International support will be critical in implementing the recommendations of the national security review commissioned by President Kabbah last year. The review took a comprehensive approach, covering not only the efforts to reform the police and the armed forces and the need to improve coordination among security agents but also the role of good governance and sound economic management in consolidating security and stability in Sierra Leone.

16. There were no major external threats to Sierra Leone's security during the reporting period. The situation in neighbouring Liberia continued to stabilize. The successful national elections and further consolidation of peace in that country are expected to have a salutary effect on stability in Sierra Leone. Nonetheless, the security situation in the border areas can be expected to remain fragile. The Sierra Leone armed forces and police continue to conduct joint border patrols, helping to foster better tactical coordination between the two security agencies. The border units are not well equipped or resourced, however. UNAMSIL and the United

Nations Mission in Liberia (UNMIL) will continue to jointly monitor the border areas until the departure of UNAMSIL.

17. Further steps were taken towards a peaceful settlement of the Yenga border dispute between Guinea and Sierra Leone. Early in October, senior officials from the two countries, assisted by technical experts from the United Kingdom and France, conducted an on-site inspection of the disputed area and held consultations at Koindu. The two sides noted that an early settlement of the dispute was vital for promoting peace and stability in the Mano River basin. Follow-up bilateral consultations are expected to be held as soon as the experts submit their report.

IV. Inter-mission cooperation

18. The Heads of Mission of UNAMSIL, UNMIL and the United Nations Operation in Côte d'Ivoire (UNOCI) continued to share information and coordinate their peace efforts through regular meetings. The last meeting, organized by the United Nations Office for West Africa (UNOWA), was held in Monrovia on 27 October. With respect to Sierra Leone, the meeting noted the progress made in the drawdown of UNAMSIL.

19. As part of overall regional cooperation among United Nations agencies, the second meeting of United Nations country teams in the Mano River basin and Côte d'Ivoire was held in Conakry on 10 and 11 November to review progress in the implementation of the action plan adopted at the first regional meeting of the United Nations country teams in the Mano River basin, held on 15 and 16 February in Freetown. The Conakry meeting agreed to further enhance coordination within the United Nations system in various areas, including youth employment initiatives, HIV/AIDS prevention and cross-border issues.

V. Implementation of the drawdown plan

20. The withdrawal of UNAMSIL is proceeding on schedule and will be completed by the end of December. As at 1 December, the strength of the force stood at some 1,160 military personnel following the repatriation of the Ghanaian battalion at the end of September, the Pakistani battalion in October, and part of the Nigerian battalion in November. The remaining troops and 69 military observers are located in the Freetown area. The repatriation of the Nigerian battalion will be completed by 6 December, with the exception of the company protecting the Special Court as indicated in section VI below.

21. The strength of UNAMSIL police stood at 46 personnel as at 1 December. During the reporting period, the police personnel have been operating from the Central Division in Freetown, as well as from Kenema, Bo, Makeni and Lungi. Those team sites will remain operational until 31 December 2005, when all the police personnel will be repatriated, with the exception of a small team of 10 officers, who will be temporarily retained in Freetown to facilitate a seamless transition to UNIOSIL.

22. The drawdown of all categories of UNAMSIL civilian personnel is also on schedule. Some 87 administrative support staff will be retained to carry out the liquidation of UNAMSIL between 1 January and 30 June 2006. There will be a further reduction of the liquidation personnel in April 2006.

VI. Security for the Special Court for Sierra Leone

23. On 1 December, UNMIL assumed command of the company-sized Nigerian military unit that is currently providing security protection at the premises of the Special Court for Sierra Leone. UNMIL exercises operational command of this unit through a tactical headquarters located in Freetown. The Nigerian unit will be repatriated by 15 January 2006, when a military guard force from Mongolia will be fully deployed to relieve it. UNMIL will earmark a rapid reaction force that would be deployed from Monrovia to Freetown in the event of a situation where the Special Court guard force requires additional military assistance.

VII. Establishment of the United Nations Integrated Office in Sierra Leone

24. Administrative preparations for setting up the United Nations Integrated Office in Sierra Leone, which will become operational on 1 January 2006, are in the final stages. The budget and staffing proposals as well as logistical and security arrangements are being finalized. I have already informed the Security Council of my intention to appoint Victor da Silva Angelo, the current Deputy Special Representative at UNAMSIL, as my Executive Representative for UNIOSIL. In addition, he will retain his current functions as the United Nations Resident Coordinator and UNDP Resident Representative. Eligible personnel from the Mission will be recruited to serve in UNIOSIL.

25. An interdepartmental team from the United Nations Secretariat and United Nations agencies, led by the United Nations Development Programme (UNDP), visited Sierra Leone from 6 to 17 November to work with the Government and all relevant partners to draw up a draft peace consolidation strategy, which will provide the framework for the implementation of the mandate of UNIOSIL. UNIOSIL will finalize the draft strategy once it becomes operational.

26. The strategy will build upon the work accomplished under the transition plan for 2005, developed jointly by UNAMSIL and the United Nations country team, and will focus on peace consolidation through enhancing economic governance and creating lasting national capacities for conflict prevention. It will also complement the Government's poverty reduction strategy and the revised United Nations development assistance framework.

VIII. Implementation of the transition plan for 2005

27. Considerable progress was made towards completing the tasks set out in the joint UNAMSIL/United Nations country team transition plan for 2005. The third review of the Transition Plan, conducted in October, indicated encouraging results pointing to the successful completion of initiatives that the United Nations system in

Sierra Leone set for itself in order to ensure sustained peace and security, consolidate State authority and promote good governance and human rights, address cross-border issues, advance national recovery, thus laying the foundation for further post-conflict peacebuilding work.

A. Strengthening the capacity of the security sector

28. The efforts to strengthen the capacity of the Sierra Leone armed forces continued to receive encouraging support from Sierra Leone's international partners, including a recent donation of trucks by Switzerland and the planned procurement of communications equipment by the United Kingdom. India has offered to provide additional communication equipment for the armed forces, while the Netherlands has pledged to contribute more vehicles. Three patrol boats are expected from the United States and one from China. These crucial assets will greatly enhance the capability of the maritime wing of the armed forces. At the end of November, UNAMSIL handed over to the Government a barracks complex fully fitted as a joint national operations centre.

29. Nonetheless, the Government continues to face challenges in meeting the cost of operations of the armed forces, particularly payments for fuel and for the maintenance of the armed forces and police transport fleets. Sustained efforts are also needed to improve the living conditions of the armed forces personnel. During the period under review, UNMIL and UNDP continued to assist in the implementation of sanitation projects in military barracks in Freetown.

30. The ongoing restructuring of the armed forces to reduce their troop strength from the present level of some 13,000 military personnel to 10,500 by 2007 has slowed considerably, owing to the shortage of resources to cater for the retrenchments. The training and restructuring programme continues to rely heavily on international support and will need additional resources if it is to be completed on schedule. The United Kingdom-led International Military Advisory and Training Team has indicated its commitment to provide continued training to the Sierra Leone Armed Forces until at least 2010.

31. The current strength of the Sierra Leone police stands at some 9,500 personnel. To date, UNAMSIL police have provided training to some 4,000 police personnel, covering such areas as basic police training, training of trainers, computer literacy, human rights, airport security, driving, election monitoring, family support, criminal intelligence, policing diamond mining and cross-border activities, as well as middle and senior management training courses. They have also provided field-level mentoring on routine policing matters, such as suspect handling, report writing, investigations and patrols, as well as supervision aimed at making the police service more people-friendly and its policing activities more community-oriented.

32. The Sierra Leone police are currently deployed throughout Sierra Leone: 74 police stations and 112 police posts have been established across the country. In the assessment of UNAMSIL, the Sierra Leone police force is likely to be able to train the remaining police personnel to bring its strength to the authorized target of 9,500 by 2006. The deployment of police personnel in the provinces is still hampered by a lack of accommodation, however.

33. The Sierra Leone police are expected to train their full strength by 2006, and are able to deal effectively with localized internal threats. They are likely to be seriously challenged, however, particularly in the districts, in the event of a countrywide crisis, because of their deficiencies in communications and transport. Another challenge still confronting the Government is the sustenance of the police force, especially in terms of salaries and maintenance of equipment. Moreover, corruption is reportedly still prevalent in some police units, despite the ongoing efforts to tackle it.

34. Working relations between the armed forces and the police force continue to improve. Joint operations between the two forces regularly carried out in areas along the country's borders have indicated closer collaboration between the two security agencies. However, while many senior military officers acknowledge the primacy of the Sierra Leone police in maintaining law and order throughout the country, fundamental misconceptions about the role of the police still persist in some segments of the army and the society. On the whole, there are encouraging indications that, with sustained long-term support from international partners, the Sierra Leone security sector can gradually overcome remaining challenges.

B. Consolidation of State authority

35. Further strides have been made in decentralizing Government authority and services. The Government has handed over responsibility for major administrative services in education, health and agriculture to local councils, and carried out a review of tax rates at the local level. Overall, there has been significant progress in rebuilding local government infrastructure and institutions.

36. Notwithstanding these advances, the capacity of local councils to effectively deliver services to the local population is still hampered by lack of qualified personnel, as well as financial and logistical constraints, and the poor communications infrastructure. Further efforts are also needed to harmonize the distribution of responsibilities between local councils and the traditional chiefdom system.

C. Government control over the mining sector

37. The Government continued to implement measures to reassert its control over diamond mining through the issuance of more mining licences. As a result of progress made in this area, diamond exports increased from $10 million in 2000 to $130 million in 2004. By the end of September 2005, $109 million worth of diamonds had been exported. This remarkable growth is linked to increased Government control over diamond mining through the implementation of the Kimberley Process Certification Scheme and related measures taken by the Government.

38. However there is still need to enhance the monitoring of mines and diamond extraction and to reinforce security, particularly in areas where new discoveries are made. Although mining monitors have been deployed in the major diamond-mining areas nationwide, their work is limited by a lack of transport and other logistical constraints. More than 50 per cent of diamond-mining activities in the country are still unlicensed. In addition, diamond-mining rights and boundaries continue to be a

major source of disputes among chiefdoms. The large numbers of youths engaged in illegal mining activities, as well as the largely unregulated power of chiefdom authorities to issue mining licences, presented challenges in the Government's efforts to encourage potential investors. Bringing diamond mining under effective control will therefore be a long-term effort that requires active community involvement and international support long after the exit of UNAMSIL.

IX. Economic recovery

39. Projections for GDP growth in Sierra Leone for 2006 and 2007 are 7.1 per cent and 6.5 per cent, respectively. The principal sources of growth in the economy have been agriculture and mining, complemented by the service industry and to a smaller extent manufacturing.

40. An expected decline in foreign aid due to the phasing out of humanitarian and post-conflict recovery assistance, as well as perceived high levels of corruption, could result in a substantial reduction in foreign inflows. This would have a negative impact on the balance of payments, macroeconomic stability and the investment needed for growth. GDP growth of at least 6 per cent per annum needs be sustained for Sierra Leone to achieve the Millennium Development Goal of halving poverty by 2015, though this largely depends on the availability of resources for investment from international aid flows and domestic savings.

41. The fiscal balance is improving, but it should be carefully managed over the next two years. Inflation is expected to be reduced to single digit figures in 2006 and 2007. Although the country's export base has improved, mainly because of the export of mineral resources, the level of imports remains elevated. In this respect, Sierra Leone has a high degree of external vulnerability. Advancing the development of informal and private sector activities will be crucial for job creation and income generation in the short term as the formal sector currently lacks sufficient capacity and the country's infrastructure remains weak.

42. Of particular concern for long-term stability is the 70 per cent poverty rate, high unemployment among youths, the poor quality of public service delivery, such as health and education, and the general perception that public institutions are failing to deliver services because of corruption. The national poverty gap, the average person's level of consumption below the poverty line, is 29 per cent, while the depth of poverty is concentrated in the rural areas. Related to these challenges are serious gender inequities, particularly in terms of economic empowerment of women, who have limited access to formal credit facilities owing to their lack of collateral. Women still have less access to land in rural areas because of discriminatory inheritance rights.

43. It is important that donors continue to support Sierra Leone through the country's poverty reduction strategy, which provides a framework for poverty reduction, economic growth and human development. A meeting of the Consultative Group for Sierra Leone was held on 29 and 30 November in London, where the Government presented its poverty reduction strategy paper to donors and other major stakeholders, including members of United Nations agencies. Also discussed at the meeting were such priority issues as youth unemployment, capacity-building, the need to fight corruption and HIV/AIDS prevention. Donors reconfirmed the

availability of $800 million for the implementation of the poverty reduction strategy during the period from 2005 to 2007.

X. Human rights

A. Monitoring and promotion of human rights

44. The increasing trend towards respect for human rights and fundamental freedoms continues, especially in the area of civil and political rights. As recommended by the Truth and Reconciliation Commission, efforts to repeal or amend the provisions of the Public Order Act to eliminate undue limits on freedom of expression are ongoing. Since my last report, there have been no reports of arbitrary killings, extrajudicial executions or a pervasive pattern of gross human rights violations, except with regard to female genital mutilation, which is still widespread.

45. In the area of social and economic rights, progress remains slow. The majority of the people of Sierra Leone continue to be marginalized with regard to basic economic and social rights, including lack of adequate education, health care and potable water caused by a number of factors, such as illiteracy, poverty, corruption and deficiencies in good governance.

46. Building a reformed and effective judiciary system continues to be a critical challenge. Although significant support has gone towards the construction and rehabilitation of court houses and prison facilities throughout the country, this has not been matched by the effective delivery of justice.

47. The problems resulting from overcrowded prisons are compounded by limited access to health-care facilities and legal counsel for prisoners as well as the erratic supply of water to prisons. While the United Nations has provided short-term solutions to alleviate the backlog in trial cases and water problems in the prisons, the Government also needs to put in place long-term measures to address these challenges.

48. Progress has been made towards the establishment of a national human rights commission. The Government has authorized the Ministry of Justice to proceed with the establishment of the commission and requested technical assistance from the Office of the United Nations High Commissioner for Human Rights (OHCHR). UNAMSIL, supported by OHCHR, is collaborating with the Ministry in this regard to select and appoint commissioners in accordance with the Human Rights Commission Act. In response to a request from the Government, OHCHR has contracted a consultant, who arrived on 24 November, to facilitate consultations and provide advisory services for the establishment of the commission.

B. Report of the Truth and Reconciliation Commission

49. As part of the OHCHR technical cooperation project to support the dissemination and implementation of the report of the Truth and Reconciliation Commission, UNAMSIL has produced a shortened version of the report and conducted various workshops, including with the members of the Parliament, to create awareness on the findings and recommendations of the Commission.

UNAMSIL has also facilitated the countrywide distribution of the report, including child-friendly and compact disc versions.

50. In order to encourage civil society participation and local ownership of the national reconciliation process, the OHCHR project also provided grants to the Centre for Media Education and Technology and the Truth and Reconciliation Working Group to conduct various training and public awareness programmes and support local reconciliation initiatives.

51. Although the Government's White Paper accepted several recommendations of the Truth and Reconciliation Commission, in principle, the pace of implementation of the recommendations remains slow. More than a year since the report was submitted, the Government has yet to prepare a comprehensive plan of action for implementing the recommendations. However, civil society organizations recently presented a draft omnibus bill to Parliament on the repeal of some legislation, as recommended by the Commission. The Government has also decided that the Human Rights Commission, when established, should act as the follow-up committee to monitor the Government's compliance with and implementation of the recommendations of the Truth and Reconciliation Commission.

52. A stakeholders' conference, proposed by OHCHR, is scheduled for December 2005 to review the human rights situation in Sierra Leone, and to assess the challenges, constraints and residual tasks to be undertaken in the post-UNAMSIL phase. The conference will also aim at contributing to the development of an effective and coordinated work plan for the human rights component of UNIOSIL during 2006.

XI. Gender issues

53. UNAMSIL continued to work with the Government and civil society to disseminate Security Council resolution 1325 (2000) on women and peace and security. During the period under review, workshops were held in Freetown and in the provinces for local administration and non-governmental organizations on the implementation of the resolution.

54. The capacity of the Ministry of Social Welfare, Gender and Children's Affairs, which is charged with coordinating gender equality programmes within the Government, is still limited. Non-governmental organizations advocating for women's rights are largely concentrated in Freetown and they also lack resources. It is therefore for Sierra Leone's development partners to continue to provide the support needed to build the capacity of the Ministry and women's organizations to enable them to effectively advocate and coordinate their activities for the promotion of women's rights.

XII. Discipline and personnel conduct issues

55. UNAMSIL continued to intensify its efforts to cultivate awareness of and train its civilian and military personnel on the prevention of sexual exploitation and abuse and the United Nations code of conduct. The Mission also worked in collaboration with UNICEF to train the United Nations agencies' focal points on sexual exploitation and abuse. The Mission also actively participates in the Coordinating

Committee on the Prevention of Sexual Exploitation and Abuse, which is a countrywide network that includes representatives from the United Nations system, the Government, non-governmental and civil society organizations.

56. UNAMSIL is issuing information circulars to help United Nations personnel understand what constitutes sexual exploitation and abuse. In addition, a list of off-limits facilities in Freetown and other major cities has been established, and strict monitoring arrangements are in place to ensure the compliance of personnel with this regulation. The existing mechanisms to prevent and investigate cases of sexual exploitation and abuse will continue under UNIOSIL.

XIII. Mission support issues

57. The administrative component of UNAMSIL continues to prepare logistical and administrative infrastructure to facilitate transition to UNIOSIL. By 1 January 2006, the necessary logistical arrangements are expected to be in place to support the implementation of the UNIOSIL mandate. A number of camps formerly used by UNMIL, which UNIOSIL will not need, are being handed over to the Government of Sierra Leone.

58. UNAMSIL has also completed a major expansion of the camp for the guard force providing security for the Special Court. The Mission is also shipping assets that will not be required by UNIOSIL to other peacekeeping operations.

XIV. Observations

59. As UNAMSIL departs from Sierra Leone, it leaves behind a country that has great potential to achieve lasting stability, democracy and prosperity. Over the six years of its operations in Sierra Leone, the Mission forged an effective partnership with the United Nations country team, countries of the subregion, the donor community, humanitarian organizations, Sierra Leone civil society and the Government, which has placed Sierra Leone on a firm path to post-conflict recovery. As a result of this collaborative effort, a stable security environment has been established throughout the country and substantial progress has been made in rebuilding the security sector. State authority has been restored throughout Sierra Leone and significant strides have been made towards re-establishing the Government's control over the country's diamond-mining sector.

60. The human rights situation is also improving, while the efforts to promote national cohesion, reconciliation and tolerance are making progress. In addition, Sierra Leone has achieved sustained economic recovery over the past three years. Sierra Leone has also started building peaceful and mutually beneficial relations with its neighbours. UNAMSIL has therefore successfully completed its peacekeeping mandate.

61. The completion of the peacekeeping phase of the United Nations engagement is another turning point for Sierra Leone. The tasks facing the country as it pursues the post-conflict peacebuilding agenda are as challenging as those it had to tackle during the peacekeeping and emergency relief phases. The socio-economic situation, in particular, presents formidable challenges and has the potential to undermine the political stability Sierra Leone currently enjoys. It is therefore

imperative for the country, supported by its development partners, to redouble the efforts to address the problem of pervasive corruption, and to continue to pursue policies that will ensure sustained economic growth, so as to create employment and reduce poverty.

62. The Government's capacity to deliver services to the population, particularly in the areas of education, health and sanitation, needs sustained attention. It is through progress in these critical areas that the population, which has been deprived by a brutal conflict, can begin to see and feel tangible peace dividends.

63. Sustained stability will also depend on the ability of the Government to successfully carry through the security sector reform programme to its completion. Continued efforts to reinforce the capacity of institutions that underpin good governance, in particular the judicial sector, will be equally important in this regard. These efforts require a level of resources that Sierra Leone is unable to provide on its own. Continued donor support for these critical reform programmes will therefore be essential.

64. Despite the challenges described above, the prospects for Sierra Leone are promising. In addition to the commendable efforts of the Government, the country also continues to enjoy the goodwill of its international partners, including the donor community. In this regard, I am greatly encouraged by the outcome of the Consultative Group meeting recently held in London, where donors pledged further support to Sierra Leone after the departure of UNAMSIL. The international community has also demonstrated its determination to secure the gains made since the deployment of UNAMSIL by establishing UNIOSIL, which has a strong mandate to support the Government's post-conflict peacebuilding efforts in order to ensure peace and security, consolidate State authority and promote good governance and human rights, address cross-border issues, and advance national recovery, economic and social development.

65. I am also encouraged by the enthusiasm shown by Sierra Leone's political parties as they start preparing for the elections to be held in 2007. Donors are pledging substantial support for the electoral process. I however appeal to the political parties to conduct their electoral activities in a manner that does not undermine the hard-won peace and stability they currently enjoy. The elections will constitute a major test not only of the country's ability to sustain democratic governance but also of the capacity of its security sector to sustain law and order, and a stable security environment in the delicate political environment which the elections will inevitably create.

66. Given the unique history of UNAMSIL, I cannot but feel a deep sense of satisfaction as I submit this last report on the Mission. The trials and tribulations faced by the Mission during the crisis of 2000, the measures taken to reverse its fortunes, and its achievements between 2001 and today, are indeed remarkable. The Mission's recovery from the 2000 ordeal offers a wealth of lessons for current and future peacekeeping operations. The Secretariat has already started extracting the best practices from those lessons.

67. UNAMSIL is also a Mission that has broken new ground in a number of significant areas. It was the first United Nations peacekeeping operation to "re-hat" a parallel sub-regional peacekeeping force. It was also the first to enter into an "over-the-horizon" backstopping arrangement with a Member State, in this case the

United Kingdom, which also simultaneously launched a security sector reform programme to complement the Mission's efforts. The integrated mission concept, with a triple-hatted Deputy Special Representative, who brought together the efforts and resources of the mission, the United Nations system and humanitarian organizations to work towards common goals at different stages of the peace process was also introduced for the first time in UNAMSIL.

68. The Mission's exit strategy, which was based on a carefully calibrated gradual drawdown of the Mission's military component and guided by specific benchmarks, was also an innovative approach by the Security Council. This approach gave Sierra Leone the requisite security space to consolidate peace over the past three years. The establishment of UNIOSIL too, with its integrated nature and a comprehensive peacebuilding mandate, is a groundbreaking initiative. The regional approach to peacekeeping operations was moreover tested for the first time through inter-mission cooperation between UNAMSIL and other United Nations presences in the subregion. UNAMSIL and its sister missions in the subregion took inter-mission cooperation to higher levels, beyond information-sharing, to mounting coordinated operations in border areas, sharing logistical assets and, recently, placing a military unit deployed in Sierra Leone under the command of the peacekeeping operation in Liberia.

69. I remain concerned, however, about the volatile security and political situation in Sierra Leone's immediate neighbourhood, which can be expected to continue to present serious security challenges for the country. Nonetheless, it is gratifying to note that the presence of both UNAMSIL and UNMIL has enabled the countries of the Mano River basin to begin rebuilding peaceful and mutually beneficial relations, which will help to enhance their individual security. While Sierra Leone is making commendable efforts to rebuild good-neighbourly relations, those efforts should be underpinned by the revitalization of the Mano River Union and the construction of new mechanisms for security cooperation among Sierra Leone, Côte d'Ivoire, Guinea and Liberia.

70. In the meantime, it is hoped that continued peacekeeping engagement in Liberia in the post-election period will remain a key stabilizing factor for both Sierra Leone and the wider Mano River basin. Concerted efforts to resolve the crisis in Côte d'Ivoire will also be important for Sierra Leone, as the presence of armed combatants in any country in the West Africa subregion does not bode well for the stability of all.

71. In conclusion, I would like to express gratitude to all past and present civilian and military personnel of UNAMSIL, as well as my Special Representative, Daudi Mwakawago, and all previous leaders of the Mission, who have made the successful completion of the UNAMSIL mandate possible. I also pay tribute to other members of the United Nations system in Sierra Leone, as well as the donor community and humanitarian organizations for their significant contribution to the establishment of the peace and stability that Sierra Leone currently enjoys. The Government and people of Sierra Leone also deserve commendation for their remarkable resilience and for making good use of the opportunity offered by international partners to lift their country from crisis.

Annex

United Nations Mission in Sierra Leone: contributions as at 1 December 2005

A. Military component

Country	*Number*
Bangladesh	232
Germany	08
Jordan	70
Nigeria	449
Pakistan	290
Military observers	69
Total	**1 198**

B. United Nations police

Country	*Number*
Gambia	02
Ghana	01
India	02
Jordan	02
Kenya	01
Malaysia	01
Namibia	02
Nepal	03
Nigeria	04
Pakistan	01
Sweden	02
Turkey	03
Zambia	04
Zimbabwe	02
Total	**30**

Map No. 4132 Rev. 33 UNITED NATIONS
December 2005 (Colour)

Department of Peacekeeping Operations
Cartographic Section

United Nations A/60/587-S/2005/778

General Assembly
Security Council

Distr.: General
12 December 2005

Original: English

General Assembly
Sixtieth session
Agenda items 106 and 108

Crime prevention and criminal justice

Measures to eliminate international terrorism

Security Council
Sixtieth year

Letter dated 9 December 2005 from the Permanent Representative of Uzbekistan to the United Nations addressed to the Secretary-General

I have the honour to draw your attention to the fact that the outcome of the court trial on the cases related to the terrorist acts in Andijan was commented upon in an unfair and prejudiced manner by the States members of the European Union in their statement circulated as a Security Council document (S/2005/749).

In this connection, I would like to attach the statement of the Supreme Court of the Republic of Uzbekistan (see annex) so that it could contribute to the accurate and objective understanding of the issue by the international community.

I would appreciate it if you could circulate the present letter and its annex as a document of the sixtieth session of the General Assembly, under agenda items 106 and 108, and of the Security Council.

(*Signed*) Alisher **Vohidov**
Permanent Representative of the Republic of Uzbekistan

05-63691 (E) 131205 131205

Annex to the letter dated 9 December 2005 from the Permanent Representative of Uzbekistan to the United Nations addressed to the Secretary-General

[Original: Russian]

Statement by the Supreme Court of the Republic of Uzbekistan

The judicial proceedings in Tashkent relating to 15 individuals accused of committing terrorist acts in May 2005 in the town of Andijan were conducted in accordance with the rules of Uzbek legislation, which itself complies with the standards and requirements of the rules of international law.

It must be noted that the rules of international law are based on the principles of the fullest protection for human rights and people's interests and are binding on the whole of the world community. Uzbekistan observes these requirements with due strictness.

These international standards were also observed in the course of the legal proceedings in Tashkent. Indeed, the trial was extremely transparent, open and, ultimately, accessible to the entire world community, in the person of representatives of diplomatic missions, international organizations and the foreign media. We note that, notwithstanding their democratic approach to the consideration of cases, the judicial practices of the United States of America and the European Union have not, to date, manifested similar or identical qualities.

In the light of these facts, the statements by officials of the United States and the European Union on the allegedly unfounded nature of the charges against 15 individuals who participated in mass disorders in Andijan are clearly rather subjective and tendentious.

With regard to the testimony which the United States and the European Union perceived as implausible and obtained under duress, the actual facts admit of no doubt as to its objectivity and trustworthiness. The testimony by witnesses and victims concerning the events in question was fully confirmed by the evidence on the case that emerged in the course of investigation. It may be noted that United States and European Union representatives were themselves eyewitnesses to the judicial proceedings when they listened to the testimony of some 300 people. They also witnessed the adversarial approach adopted by the defence, which included the counsel whose defence procedures were branded "inadequate". The undoubted effectiveness of the defence is irrefutably shown by the fact that a number of counts were excluded from the indictment, which had a considerable effect on the final form of the penalties imposed.

It only remains to note that such "extreme concern" expressed about Uzbekistan by Western countries which have also in their time been fated to suffer from terrorist acts is somewhat bewildering and raises some doubts as to the sincerity of their concern. The statements by the United States and the European Union give Uzbekistan, in its turn, cause to express some concern as to whether they are truly committed to combating terrorism. For their actions run completely counter to the principles of the fight against terrorism that they themselves have been advocating and proclaiming.

United Nations S/2005/779

Security Council

Distr.: General
12 December 2005

Original: English

Letter dated 7 December 2005 from the Secretary-General addressed to the President of the Security Council

I have the honour to refer to Security Council resolution 1620 (2005), by which the Council requested me to establish the United Nations Integrated Office in Sierra Leone (UNIOSIL), beginning on 1 January 2006.

Following the usual consultations, it is my intention to appoint Victor da Silva Angelo, who is currently serving as Deputy Special Representative for Sierra Leone, as my Executive Representative for UNIOSIL. Mr. da Silva Angelo will also continue to serve as the Resident Representative of the United Nations Development Programme and United Nations Resident Coordinator in Sierra Leone.

I should be grateful if you would bring this information to the attention of the members of the Security Council.

(*Signed*) Kofi A. **Annan**

05-63766 (E) 131205

United Nations S/2005/780

Security Council

Distr.: General
12 December 2005

Original: English

Letter dated 12 December 2005 from the President of the Security Council addressed to the Secretary-General

I have the honour to inform you that your letter dated 7 December 2005 (S/2005/779) concerning your decision to appoint Victor da Silva Angelo as your Executive Representative for the United Nations Integrated Office in Sierra Leone has been brought to the attention of the members of the Security Council. They take note of the intention expressed in your letter.

(*Signed*) Emyr **Jones Parry**
President of the Security Council

05-63772 (E) 131205

United Nations S/2005/781

Security Council

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14 December 2005

Original: English

Letter dated 30 November 2005 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, addressed to the President of the Security Council

I am pleased to transmit herewith the assessments of the President (see annex I) and of the Prosecutor (see annex II) of the International Criminal Tribunal for the Former Yugoslavia, pursuant to paragraph 6 of Security Council resolution 1534 (2004).

I would be grateful if you could transmit these assessments to the members of the Security Council.

(*Signed*) Fausto **Pocar**
President

05-64224 (E) 060106

Annex I

Assessment and report of Judge Fausto Pocar, President of the International Criminal Tribunal for the Former Yugoslavia, provided to the Security Council pursuant to paragraph 6 of Council resolution 1534 (2004).

1. This report is submitted pursuant to Security Council resolution 1534 (2004) adopted on 26 March 2004 in which the Council, in paragraph 6 of the resolution, requested the International Criminal Tribunal for the Former Yugoslavia ("ICTY") "to provide to the Council, by 31 May 2004 and every six months thereafter, assessments by its President and Prosecutor, setting out in detail the progress made towards implementation of the completion strategy of the Tribunal, explaining what measures have been taken to implement the completion strategy and what measures remain to be taken, including the transfer of cases involving intermediate and lower rank accused to competent national jurisdictions."[1] This is the fourth report of the President of the Tribunal in compliance with Security Council resolution 1534 (2004) and summarizes the steps taken towards implementation of the completion strategy from June to November 2005.

2. At the outset, I bring to the attention of the Security Council that I was elected to the Presidency by the Judges of the Tribunal on 17 November 2005 after having served as Vice-President. Thus, this is my first report to the Security Council pursuant to resolution 1534 (2004). Given the recent date of my election, this report primarily represents the achievements and progress of the Tribunal under the leadership of my predecessor, Judge Theodor Meron.

I. Introduction

3. The three Trial Chambers of the Tribunal have continued to function at maximum capacity, hearing six trials simultaneously and managing 18 cases in the pre-trial stage. The cases tried during the reporting period are: *Milošević*; *Orić*; *Hadžihasanović and Kubura*; *Limaj*, *Musliu and Bala*; *Krajišnik*; *Halilović*; and *Mrkšić*, *Radić and Šljivančanin*. Since the submission of the May 2005 report to the Council, Trial Chambers have rendered Judgement in two cases involving one accused (*Halilović*) on 16 November 2005 and three accused (*Limaj, Musliu and Bala*) on 30 November 2005. The *Hadžihasanović and Kubura* case is currently in the Judgement-writing phase with issuance expected in January 2006. Judgements are also expected in *Orić* and *Krajišnik* by mid-2006 and in *Milošević* by December 2006. In addition, four contempt cases involving six accused have been assigned to Trial Chambers in the reporting period: *Šešelj and Margetić*; *Marijačić and Rebić*; *Jović*; and *Križić*.[2]

4. The Appeals Chamber has also continued to operate at full capacity and has disposed of 30 appeals both from the ICTY and the International Criminal Tribunal for Rwanda ("ICTR"), since the

[1] The present report should be read in conjunction with the previous three reports submitted pursuant to Security Council resolution 1534 (2004): S/2004/420 of 24 May 2004; S/2004/897 of 23 November 2004; and S/2005/343 of 25 May 2005.

[2] *See* Enclosures I and II.

last report. Of those, four have been Appeals Judgements, 23 have been decisions on interlocutory appeals, one has been a contempt decision, and two have been referral decisions.[3] Currently, 27 appeals are pending (both ICTY and ICTR) comprising 13 appeals from Judgements, nine interlocutory appeals, two 11*bis* referral appeals, two review proceedings and one appeal from a decision of the ICTR President. Judgements in the *Naletilić and Martinović* and *Stakić* cases are currently being drafted with issuance expected in January and February 2006.[4] The *Nikolić* case is to be heard in the first week of December 2005 and issuance of the Judgement is also expected in January or February 2006. *Cyangugu* and *Gacumbitsi* will both be heard in February 2006 with issuance of their respective Judgements expected a few months thereafter.

5. The Tribunal continues to receive new arrivals of indictees or fugitives. Since the May 2005 report, three more indictees have been apprehended resulting in a total of 20 new fugitives that have been or are being transferred to the Tribunal in the past year. These new fugitives amount to a greater than 50% increase of the number of persons awaiting trial in November 2004.[5] Only seven indictees remain at large. This unprecedented number of new arrivals to the Tribunal in a short period of time has had and will continue to have a significant impact on the implementation of the completion strategy. This issue is addressed in more detail later in this report.[6]

6. At present, 44 accused in 18 cases are awaiting trial (not including the contempt cases). These numbers represent a decrease of seven accused since the last report due to the start of new trials, 11*bis* referral of cases to national jurisdictions, and two guilty pleas. Of these 44, 22 have been provisionally released. Two accused awaiting Judgement have also been provisionally released.[7]

II. Measures taken to implement the completion strategy

A. Internal measures to accelerate proceedings

7. The Judges of the Tribunal have continued to monitor the impact of the Rules of Evidence and Procedure ("Rules") on the efficiency of proceedings at the Tribunal. In August, a significant amendment to the Rules was made removing the requirement in Rules 54*bis*, 65 and 127 that leave be granted by a Bench of three Appeals Judges before a Bench of five Appeals Judges would decide an interlocutory appeal. In practice, this leave requirement often resulted in two rounds of pleadings and two reasoned decisions being prepared by the Appeals Chamber on the same arguments proffered by the parties. Already, the new procedure has cut in half the time required to dispose of 12 interlocutory appeals.

[3] *See* Enclosures VI and VII.

[4] *See* Enclosures VI and VII.

[5] As stated in the May 2005 report, at the end of 2004, there were only 34 accused awaiting trial, either in the custody of the Tribunal or on provisional release.

[6] *See* Enclosure III.

[7] *See* Enclosures I and IV.

8. As was stated in the May 2005 report, two working groups of Judges have been formed to examine the procedures and practices of the Trial and Appeals Chambers with a view to improving their working methods, while maintaining the Tribunal's commitment to due process. The Working Group on Speeding up Trials, chaired by Judge Bonomy and assisted by Judges Hanoteau and Swart, submitted a final report on courtroom space to my predecessor in July 2005, which focuses on the issues of adding a fourth courtroom to the Tribunal and possible modification to Courtroom Two in order to increase its capacity. Due to its size and configuration, Courtroom Two's use has been limited to trials of a maximum of two accused. The Working Group came to the unanimous conclusion that Courtroom Two could be adjusted to allow for the conduct of trials involving up to three accused persons and that it would be useful for a fourth courtroom, providing the same facilities, to be constructed. The Working Group reported that the contribution of two courtrooms capable of dealing with cases involving up to three accused could be vital to expediting the work of the Tribunal, especially in the event that Courtrooms One and Three are fully occupied by multiple accused trials. The additional accommodation would also allow for more flexibility in the sitting arrangements, so that one trial might sit for longer hours in a dedicated courtroom for specific periods of time. Furthermore, it would enable all pre-trial and Appeals Chamber proceedings to continue without interrupting the conduct of any trial.

9. Following the Working Group on Speeding up Trials' expression of support for building a fourth courtroom should two of the Tribunal's courtrooms be allocated for trials of multiple accused, the Registrar of the Tribunal produced a cost/benefit analysis on the feasibility of the project in September 2005. That report concludes that the practical realisation of a fourth courtroom by the end of 2006 is possible. Technical considerations concerning associated construction activities, security issues, staff displacement and accommodation can all be resolved. With respect to the overall costs of the project in terms of either the provision of a fourth courtroom by itself or with an additional Bench of Judges, it appears that if the decision is based solely on anticipated costs and projected savings, it is difficult to establish and document an overall financial benefit. Based on the currently available planning projections, the number, length and size of court cases currently used to project savings do not appear to be reduced to the extent necessary to translate into savings, which would cover the expenses associated with building and staffing either the fourth courtroom only, or with the provision of an additional Bench. The current projections reflect that even with the fourth courtroom and additional Bench, six trials would continue to run into 2009. Therefore, although there are advantages to the consideration of a fourth courtroom in terms of increasing court time and reducing the length of the small cases, further considerations are still necessary to fully assess the viability of the project.

10. The Tribunal is still assessing this initial report along with the July 2005 report by the Working Group on Speeding up Trials and will, in the near future, decide whether to submit this option to the Security Council for guidance. In May 2005, my predecessor indicated that the intention of the Tribunal was to request interested governments to donate funds for building a fourth courtroom rather than burden the UN budget should the Tribunal ultimately decide to pursue this project. In the event that it does, I intend to adopt the approach for funding envisioned by my predecessor.

11. The Working Group on Speeding up Trials is due to submit a further report in the coming months, which focuses on improvements to pre-trial and trial practice. That report will address such issues as earlier production of witness statements, including expert reports; submission and determination in the pre-trial phase of motions for judicial recognition of adjudicated facts; Judgement-writing practices; and increasing efficient disposal of pre-trial motions.

12. The Working Group on Speeding up Appeals, chaired by Judge Mumba and assisted by Judge Schomburg and myself, completed its work in July 2005 and circulated a final report with concrete proposals for improving the procedures, methods and working practices of the Appeals Chamber regarding interlocutory appeals, appeals from Judgements, appeals from guilty pleas and sentencing appeals. These recommendations, some of which are summarized below, were unanimously adopted by the Judges in the July 2005 session of the plenary meeting of the Judges of the Tribunal. Subsequently, they were implemented into the Rules and Practice Directions of the Tribunal in September and November 2005.

13. First, the Working Group presented proposals for accelerating appeals from Judgements and related filings and motions through amendments to specific Rules and Practice Directions. With regard to motions for the filing of additional evidence on appeal under Rule 115, the Working Group suggested delaying their filing until after all of the appeal briefs in a case are submitted. The Working Group recommended this in order to avoid repetitious Rule 115 motions for decision drafters and to eliminate delay in the appeals briefing schedule. It was agreed that Rule 115 motions should be filed within 30 days of the date for filing the brief in reply instead of within 75 days from the date of the Trial Judgement. In addition, the Working Group recommended that where Rule 115 motions were filed out of time after an appeals hearing, the standard for admission of that evidence should be heightened such that it will only be admitted where the submitting party demonstrates cogent reasons. The Working Group noted that such an amendment to Rule 115 is necessary for discouraging a growing trend by parties to file non-meritorious Rule 115 motions just before the Appeals Judgement is due to be issued.

14. With regard to sentencing appeals, amendments to Rules 111 through 113 were proposed by the Working Group for shortening the briefing schedule and reducing the word limit for briefs filed. It was recommended that the time for filing a notice of appeal from a sentencing Judgement be reduced from 75 days to 30 days, for filing the appeal brief from 75 to 30 days, and for filing a response to the appeal brief from 40 to 30 days. Briefs in reply will now be filed within 10 days as compared to a previous 15 days. In all, a total of 105 days will be saved in the briefing schedule for each sentencing appeal.

15. On matters related to pre-appeal proceedings, the Working Group proposed expanding the power of the pre-appeal Judge to dispose of routine procedural motions, such as those requesting extensions of time or word limits, without consulting the full Bench of Judges through an amendment to Rule 127 and the relevant Practice Direction. The pre-appeal Judge will also be designated as the final arbiter on translation deadlines with the authority to decide what documents are necessary for the appeal and to eliminate translation of any unnecessary documents. The Working Group also proposed amendments to the Practice Direction on the Lengths of Briefs and Motions for shortening the parties'

filings. Page limits have been replaced by word limits and the filing party must certify compliance with the word limit.

16. Second, the Working Group suggested means for accelerating appeals other than appeals from Judgements. The Working Group recommended that Rule 116*bis*, the Rule concerning expedited appeals procedures which, *inter alia*, allows appeals to be disposed of entirely on the written briefs, be expanded to include Rule 11*bis* appeals of referral decisions as well as appeals of contempt or false testimony convictions under Rules 77 and 91.

17. Third, the Working Group made recommendations to the Registrar of the Tribunal and the Registrar of the ICTR with respect to translation practices by the Translation Unit and on assignment of Defence Counsel. The Working Group suggested that mechanisms be put in place to provide more expeditious translations of Trial Judgements into the working languages of the Defence teams, where different from the one in which the Judgement is rendered. It proposed that where the Defence team works in the language in which the Judgement is issued, priority be given to translating the Judgement into Bosnian/Croat/Serbian ("BCS") rather than the other official language of the Tribunal. Recommendations were also made to the Registry with regard to the appointment of Defence Counsel at trial, in order to avoid problems of delay resulting from a change of Counsel on appeal.

18. As stated previously, these proposals and recommendations by the Working Group on Speeding up Appeals were unanimously adopted by the Judges of the Tribunal and have been implemented. Their impact is already being felt. They have been and will continue to result in increased efficiency of appeals proceedings before the Appeals Chamber.

19. Another measure taken to accelerate proceedings at the Tribunal has been the joinder of cases. Since the May 2005 report, two motions for joinder filed by the Prosecution have been approved by decision of the Trial Chamber. Currently, three trials of six or more accused are in the pre-trial stage, with one of those cases anticipated to commence early next year. One of the cases involves eight Srebrenica defendants from six different cases (nine if fugitive Tolimir is apprehended) and the other two trials involve six defendants respectively (seven if fugitive Đjordjević is apprehended), consolidating eight cases in total.

20. In order to accommodate such a large number of accused and their Counsel, the Tribunal has begun to renovate its courtrooms. In order to ensure minimal disruption to trials, renovation is taking place on a staggered basis with the completion of the first courtroom expected on 16 January, the second courtroom on 6 February and the final courtroom on 20 March 2006.

21. A significant change at the Tribunal since the last report, which has the potential to enhance the speed of our proceedings, is the introduction of the e-Court system. This system, which integrates all case-related documents into a central electronic database thereby eliminating the need for unnecessary paper filings, should increase the accessibility of information while expediting proceedings. Following a successful pilot run of the e-Court system in the *Halilović* case, which saved the Trial Chamber approximately one and a half months of Judgement-writing time, a Practice Direction was issued by my predecessor mandating the application of e-Court to all future proceedings at the

Tribunal. The *Mrkšić et al.* case, which commenced in October this year, is the first case to follow that Practice Direction. While there have been significant problems with the application of the system in the case thus far, these are being remedied. It is hoped that the application of e-Court will render the results seen in the *Halilović* case in all future proceedings at the Tribunal.

22. Critical to the success of the completion strategy is cooperation between the organs of the Tribunal. The Chambers, Registry and Prosecution have continued to work together to find creative ways to increase the efficiency of proceedings at the Tribunal. Of particular note during the reporting period has been the increase in cooperation and communication between the organs of the Tribunal and the Association of Defence Counsel. The Association of Defence Counsel has shown a willingness to cooperate with the Tribunal in following the completion strategy through its dedication to using the e-Court system and its negotiations with the Prosecution over issues related to disclosure of materials.

23. The realisation of the Tribunal's completion strategy also relies in large part on the retention of its qualified staff. During the reporting period, attention has been given to finding effective ways to do so such as through accelerated promotion. Consideration has also been given to enhancing the abilities of our current legal staff through continued careful organization of the teams assigned to cases and further development of their legal research and writing skills. In addition, maximum use is being made of ICTR staff assigned to the Appeals Chamber who are also being assigned to ICTY cases in the same way that ICTY staff have long been assigned to ICTR appeals.

B. Ad litem Judges

24. Ad litem Judges have become critical for the efficient functioning of the Tribunal. The adoption of amendments to the Tribunal's Statute by the Council in its resolution 1597 (2005), removing the prohibition on the re-election of ad litem Judges, resulted in the re-election of Judges Thelin and Rasoazanany in the August 2005 election. The re-election of Judge Thelin allowed the Tribunal to appoint him to a new trial while he continued to work on the Judgement in the trial to which he was previously appointed. In addition, the election of the new list of ad litem Judges has provided the Tribunal with a pool of Judges to be called upon as cases become trial-ready. The Tribunal is already doing so.

25. The Tribunal is extremely grateful to the Council for having adopted resolution 1581 (2005) by which the nine ad litem Judges assigned to cases at that time were permitted to continue beyond the expiry of their terms in order to allow those cases to be finished without disruption causing delay. As Members of the Council are aware, predicting the length of proceedings is never 100% certain, and I regret to inform that the estimates provided to the Council as to the length of two trials in which ad litem terms were extended no longer prove accurate. The *Orić* case, in which ad litem Judges Eser and Brydensholt were appointed and had their terms extended, is now due to finish in June or July 2006. The other case, *Krajišnik*, in which ad litem Judge Canivell's term was extended, is now due to finish in July 2006. The principal reason for these variations in the estimated end dates for these trials is to ensure equality of arms for the defence in the presentation of its case. As has been stated by past

Presidents of the Tribunal, due process and human rights cannot be sacrificed in favour of speeding up trials.

26. The Tribunal is also grateful to the Security Council for resolution 1629 (2005), which permitted the early appointment of Judge Van Den Wyngaert as a permanent Judge of the Tribunal in October 2005. Judge Van Den Wyngaert was elected as a permanent Judge of the Tribunal in the November 2004 elections while serving as an ad litem Judge. Her early appointment as a permanent Judge allowed the Tribunal to immediately assign her to the *Mrksić et al.* case while she completed her assignment as an ad litem Judge in the *Limaj et al.* case, which was then in the Trial Judgement writing phase.

C. Referral of cases involving intermediate and lower ranking accused to competent national jurisdictions

27. The Tribunal has continued to refer cases involving intermediate and lower ranking accused to national courts in the former Yugoslavia pursuant to Rule 11*bis* of the Rules. To date, the Prosecutor has filed 12 referral motions involving 20 accused. One motion has been denied, one motion has been withdrawn by the Prosecution, and the Prosecution has indicated that it will soon withdraw another motion (*Rajić* guilty plea). So far, the Referral Bench has granted six motions and only three are pending decision. One case, which was not appealed, has been referred to the Republic of Croatia and two have been referred to the War Crimes Chamber of the State Court of Bosnia and Herzegovina following the Appeals Chamber's affirmance of the Referral Bench's decisions. The remaining three decisions by the Referral Bench are currently pending appeal.[8]

28. While referring cases to the region, the Tribunal has been careful to ensure that a fair trial will be accorded to those defendants transferred and has placed an obligation upon the Prosecutor to provide regular reports to the Tribunal on the progress of the referred cases. It should be noted that the Prosecutor has a right under Rule 11*bis* to request the Tribunal to take back a referred case should she determine that a fair trial is not being accorded to an accused. This may have an impact on the completion strategy in the future as discussed below.

29. In order to ensure that due process is accorded in cases referred, the Tribunal has continued to support initiatives to build local capacity of national courts through, for example, training of local judiciary and prosecutors in Croatia, Serbia and Montenegro, and Bosnia and Herzegovina. In June 2005, the Tribunal organised a working visit of Prosecutors from Bosnia and Herzegovina and in July, a working visit of Judges and Prosecutors from Croatia to the Tribunal. During the visits, staff of the Tribunal explained the work of the Tribunal, including the application of substantive and procedural laws and the collection and use of evidence. Judges of the Tribunal participated in a round table discussion on the assessment and weighing of evidence and other Tribunal officials discussed the referral of cases pursuant to Rule 11*bis*. Also in July, members of the Serbian judiciary were welcomed at the Tribunal. In September, the Tribunal hosted a visit of information technology staff from the War Crimes Chamber of the Belgrade District Court in Serbia. Information technology staff

[8] *See* Enclosure V.

of the Tribunal made presentations on the Tribunal's delay broadcast system, access to Tribunal documents, and exchange of documents between the War Crimes Chamber and the Tribunal. In addition, the Tribunal has received visits from the spokesperson for the Registry and Chambers of the War Crimes Chamber and hosted a visit from the Head of the Organisation for Security and Cooperation in Europe (11*bis*) trial monitoring team in Bosnia and Herzegovina.

30. A number of capacity-building initiatives were also taken within the region. For example, in June 2005, Judge Mumba from the Appeals Chamber gave a keynote address in Neum, Bosnia and Herzegovina, on the topic of sentencing for war crimes before the largest gathering of criminal law practitioners in that country as a guest of the Association of Judges and the Association for Criminal Law and Criminology of the Federation of Bosnia and Herzegovina. Also in June, the Tribunal's Registry Liason Officer in Bosnia and Herzegovina gave a two-hour briefing on the Tribunal to ten of the twelve Judges of the War Crimes Chamber of the State Court of Bosnia and Herzegovina. The Liason Officer also provided documents and materials to the Judges for furthering their understanding of Tribunal procedure and jurisprudence. In September, the Liason Officer gave a lecture on the Tribunal and distributed Tribunal documents to a group of 20 lawyers from Serbia and Montenegro, Croatia, and Bosnia and Herzegovina at a regional lawyers' seminar in Sarajevo. That same month, the Tribunal's Victims and Witnesses Section held a conference in Sarajevo gathering representatives of war crimes courts to discuss the latest developments in war crimes proceedings and needs and issues facing victims and witnesses in the different jurisdictions in the region. Finally, in October, the Registry's Liason Officer for Bosnia and Herzegovina spoke at a training programme organised by the Criminal Defence Section of the State Court of Bosnia and Herzegovina, which gathered 30 defence lawyers. He spoke on the legal framework of the ICTY, the completion strategy and referral of cases under Rule 11*bis*.

31. The Tribunal remains committed to doing its utmost to assist the development of the rule of law in the former Yugoslavia. As a result of the above mentioned initiatives in the past six months, the capacity of local courts in Bosnia and Herzegovina, Croatia and Serbia and Montengero for handling complex war crimes cases is steadily growing.

32. In addition, the Tribunal has continued to distribute key materials translated into the main languages of the region and to develop close relations with legal professionals, the NGO community, local media and governments. During the reporting period, the Tribunal distributed around 1,000 CD-Roms containing the key documents of the Tribunal, its decisions and Judgements to individuals and groups in the former Yugoslavia. The Tribunal's web-site continues to reach out to the region receiving an average of 13,000 individual visits per month. Further, the numbers of people who have watched or listened to the proceedings via our internet site are impressive. For the month of September, 98,000 people accessed the BCS video feed, nearly 10,000 viewed the English feed, and over 1,500 people accessed the Albanian video feed. Also, the Tribunal's Outreach office held a series of conferences entitled "Bridging the Gap Between the ICTY and Communities in Bosnia and Herzegovina". Through these conferences, the Tribunal explained to the communities most affected by the crimes at the heart of Tribunal's work how the Tribunal has bought the perpetrators to account and rendered justice to the victims. These activities have led to greater understanding and support for

the work of the Tribunal in the former Yugoslavia, both of which are important for the Tribunal to achieve its mandate of bringing peace and reconciliation to the region.

D. Cooperation of States in the region with the Tribunal

33. Full cooperation from the States in the former Yugoslavia has always been paramount to the success of the Tribunal. While cooperation with all States in the region continues to improve, the failure to arrest high-level accused such as Radovan Karadžić, Ratko Mladić and Ante Gotovina remains a major concern.

34. The cooperation with Croatia is satisfactory with the exception of its failure to render Ante Gotovina to the Tribunal. While the Prosecutor assessed that Croatia is doing all that it can to locate and arrest Gotovina before the European Union Task Force on Croatia on 3 October 2005, I remain concerned about the continued failure to ensure the arrival of Gotovina at the Tribunal.

35. Bosnia and Herzegovina's level of cooperation remains very good at both the Federation and State levels. With respect to the Republika Srpska within Bosnia and Herzegovina, the level of cooperation remains insufficient. It has provided no information on Karadžić and Mladić. However, there have been signs, confirmed by the Office of the High Representative for Bosnia and Herzegovina, that Republika Srpska is beginning to take seriously its obligation to make available to the Tribunal information in its possession concerning the crimes that took place in Srebrenica in the period from 11-19 July 1995. There are encouraging reports that Republika Srpska has forwarded documents to the Tribunal's Office of the Prosecutor as well as to the Prosecutor's Office in Bosnia and Herzegovina.

36. While Serbia and Montenegro's cooperation has improved, five of the seven accused remaining at large are believed to be in Serbia and Montenegro or the Republika Srpska. In October 2005, Serbia and Montenegro opened discussions with the European Union on a "stabilisation and association agreement" widely seen as the preliminary step to formal adhesion talks at a later stage. Olli Rehn, EU Enlargement Commissioner, has stated that if Serbia and Montenegro continue to fail to hand over Karadžić and Mladić, those talks could be suspended. To date, Serbia and Montenegro have failed do so, and I urge the international community to maintain its pressure on this matter.

37. In early November 2005, my predecessor travelled to Serbia to meet with Prime Minister Koštunica concerning outstanding matters between the government and the Tribunal. A primary topic of discussion was Serbia's failure to deliver to the Tribunal the remaining fugitives. During that meeting, Prime Minister Koštunica spoke of his full commitment to fulfilling Serbia's legal obligations. However, as my predecessor commented, the record of Serbia and Montenegro's commitment will be assessed by actions and results, not by words and mere promises.

38. Since the submission of the last report, the number of remaining fugitives has been reduced from ten to seven with the arrest of three indictees. Two of these fugitives are currently in the custody of Member States and negotiations are underway to ensure their transfer to The Hague. One of these fugitives, Milan Lukić, is in the custody of the Argentine authorities. Unfortunately, the transfer of

Lukić has been hindered by an application for his extradition by Serbia and Montenegro. Officials of the Tribunal travelled to Argentina in September 2005 in order to ensure the transfer. The Tribunal's primacy in this matter was recognised by the Argentine authorities but those authorities wish to dispose of the extradition request of Serbia and Montenegro before they transfer Lukić to the Tribunal. The other fugitive, Dragan Zelenović, has been detained by the Russian authorities. In October 2005, the Tribunal received a Note Verbale from the Russian Embassy confirming the detention of Zelenović and a request that consultations be held with representatives of the Tribunal and The Netherlands on the modalities of the transfer of Zelenović to The Hague. Tribunal officials travelled to Moscow in November 2005 as requested by the Russian authorities, and it is hoped that Zelenović will be transferred shortly. The third fugitive, Sredoje Lukić, was transferred to the Tribunal's custody on 16 September 2005 from Republika Srpska after being at large for nearly seven years.[9]

39. Of the remaining seven fugitives, Ratko Mladić, Radovan Karadžić and Ante Gotovina of course remain the most notorious. As has been emphasised by previous Presidents of this Tribunal, these three fugitives in particular cannot wait the Tribunal out. The Tribunal simply cannot close its doors until these fugitives have been tried.

III. Updated prognosis regarding implementation of the completion strategy

1. Recapitulation of the May 2005 estimate

40. In May 2005, the previous President reported to the Security Council that giving an estimate at that stage of when the Tribunal will finish its work was an exercise in guesswork. However, he stated that it was definitely not feasible to envisage an end of all trial activity at the Tribunal by the end of 2008. This was due to the large number of indictees and fugitives who had arrived at the Tribunal since the last report as well as the filing and confirmation of seven new or amended indictments by the Prosecution involving thirteen accused. He predicted that trials will have to run in 2009 and based that assessment on assumptions that all Rule 11*bis* motions are granted, all possible motions for joinder are granted, the arrival of no new fugitives and no new guilty pleas being entered.

41. In this report, I can confirm that trials will indeed run into 2009. This is due to the factors mentioned by my predecessor in the May 2005 report. The filing of new indictments by the Prosecutor at the close of 2004 and the large number of accused that were transferred to the Tribunal in the last year will inevitably have an impact on the Tribunal's completion strategy dates.

2. Current Estimates

42. Whether trials will indeed conclude by the end of 2009 is subject to a number of factors, which are by no means certain. As noted above, the Tribunal has forged ahead with the joinder of cases into single trials of multiple accused. However, of the three joinder motions filed by the Prosecution, two have been granted. The third of the joinder motions was refused by the Trial Chamber and the

[9] *See* Enclosure III

Prosecution has not appealed that decision. I must also emphasise that the impact that joinder of cases will have on the efficiency of trials at the Tribunal remains untested. It is possible that they may actually result in some delay if, for example, the entire trial must be stopped due to the illness of one or more accused. Nonetheless, I can assure the Council that all efforts are being taken by the pre-trial Judges assigned to cases of multiple accused to ensure proper pre-trial preparation. Talks are also underway between the Registry, Prosecution and Association of Defence Counsel to devise ways to ensure these trials run as smoothly as possible.

43. Further, the Tribunal's work with the authorities of Bosnia and Herzegovina and the Office of the High Representative for Bosnia and Herzegovina in the establishment of the Special War Crimes Chamber in Sarajevo on 9 March 2005 has begun to bear fruit with the successful referral of two accused to that Court. In addition, the Tribunal has begun to refer cases to Croatia and the first case to be referred, *Ademi and Norac*, was not appealed by either party. Therefore, four accused in total have been referred thus far. If all of the cases in which there are pending 11*bis* motions are successfully referred, this will remove 11 more accused or 10 additional cases from the Tribunal's docket in total (this includes Zelenović currently in the custody of Russia and Lukić currently in the custody of Argentina). I note however that, as stated previously, one motion has been denied, one motion was withdrawn by the Prosecution, and the Prosecution has indicated it will soon withdraw another 11*bis* motion. Consequently, five accused proffered by the Prosecution have not been transferred thus far. Also, as stated previously, there is the possibility under our Rules that referred cases could be deferred back to the Tribunal. Should this occur, it will inevitably impact upon the projected completion strategy dates and may result in some delay.

44. With regard to guilty pleas, two accused have pled guilty since the last report. In July 2005, Miroslav Bralo pled guilty and the sentencing hearing was held in October. The Sentencing Judgement is due to be issued shortly. The other accused, Ivica Rajić, who pled guilty in October, was the subject of an 11*bis* referral motion, which the Prosecutor has indicated will be withdrawn after the sentencing hearing. While guilty pleas generally have great potential for speeding up the work of the Tribunal, the impact of the guilty pleas of these accused on the Tribunal's completion dates are minimal. Bralo was intended to be the subject of an 11*bis* motion by the Prosecution and Rajić, as previously noted, was the subject of a Rule 11*bis* motion.

45. The assessment given by my predecessor of trials finishing during 2009 remains possible provided that, as noted above, the joinder of cases and Rule 11*bis* referrals run smoothly and if some of the accused currently awaiting trial enter guilty pleas, which actually impact upon the Tribunal's caseload. Other factors, however, may impinge upon the accuracy of that assessment. For example, the projected completion strategy dates may be impacted by unforeseen issues causing disruption to trials including the ill-health of some of our accused, the changing of Counsel during the proceedings, and an increased number of contempt cases brought before the Tribunal. Since the May 2005 report, four contempt cases involving six accused are in progress. Of primary importance is the trial of the Tribunal's three most notorious fugitives – Karadzić, Mladić and Gotovina. If these fugitives are arrested in the near future, then the completion of all trials at the close of 2009 remains feasible. However, the longer their arrival is delayed, the greater the likelihood that trials will continue past 2009. It is absolutely crucial that the international community do its utmost, and that includes the

States of the former Yugoslavia, to ensure that these fugitives are delivered to the Tribunal without further delay.

46. Bearing in mind the uncertain variables just mentioned, providing a current estimate as to the conclusion of the Tribunal's work still remains an exercise in guesswork. To reiterate, if all fugitives are apprehended and delivered to the Tribunal shortly, then the current estimate of the end of 2009 remains realistic. If, however, remaining fugitives are not delivered within the coming months, their late delivery may well push the completion of all trials beyond that date.

IV. Conclusion

47. As stated by my predecessor in the May 2005 report to the Security Council, "this is without doubt the most active and productive period in the life of the Tribunal thus far, a period full of challenges, stresses and strains." At present, the exact completion date for the Tribunal's work still cannot be precisely stated. I can confirm that we should be able to finish with all trials by the end of 2009 provided that all future motions for joinder are granted and the trials of multiple accused run smoothly; that all remaining Rule 11*bis* motions are granted; that the number of contempt cases are at a minimum; and that remaining fugitives, especially Karadzić, Mladić and Gotovina, are apprehended within the coming months. If these assumptions are not realised, then trials may well be pushed beyond that date. On the other hand, other factors which may contribute to making the end of 2009 feasible as a date for finishing trials include the entry of new guilty pleas and the possible construction of a fourth courtroom.

48. I assure the Security Council that the Tribunal remains fully committed to its completion strategy and will continue to do all in its power to discharge its mandate as effectively as possible. I trust that the achievements and progress by the Tribunal summarised in this report are evidence of that absolute commitment to search for ways to maximize the efficiency and efficacy of the Tribunal without sacrificing due process norms.

49. To that end, the Judges of the Tribunal will continue to focus on the Rules looking for further possible amendments that will expedite proceedings. The Working Group on Speeding up Trials is due to publish its final report shortly, and I anticipate concrete proposals that will have a positive impact on accelerating pre-trial and trial proceedings. With the granting of the joinder motions, pre-trial Judges are working closely with the parties to ensure that these cases are conducted as orderly and expeditiously as possible. The issue of the viability of building a fourth courtroom remains on the table and the Report of the Working Group on Speeding up Trials and the cost/benefit analysis of the Registrar are being closely studied. A final decision on the project is imminent. As the Appeals Chamber's workload increases, consideration is still being given to increasing the capacity of the Appeals Chamber by having two Benches of five Judges available for the disposition of appeals.

50. In establishing the Tribunal, the Council made an historic decision to restore international peace and security through international justice. Because of the existence of this Tribunal, victims of genocide, war crimes and crimes against humanity have been vindicated as the perpetrators have been brought to justice. Simultaneously, the Council has demonstrated to the world through this Tribunal

that international criminal justice, which respects fundamental due process norms, is possible. The Tribunal has served as an inspiration and an example for the formation of other international criminal courts and tribunals. It is crucial that the message and legacy of the Tribunal not be lost by a closing of its doors without all remaining fugitives being tried. The Tribunal must complete its mandate such that the fundamental lesson of the Tribunal remains — that the international community will not tolerate such crimes and will not allow them to go unpunished.

Enclosure I

1. Persons Convicted or Acquitted after Trial between 25 May 2005 and 30 November 2005 (4 persons)				
Case	**Name**	**Former Title**	**Initial Appearance**	**Judgement**
1	Sefer Halilović	Military Commander, ABiH	27-Sept-01	16-Nov-05 (Acquitted)
2	Fatmir Limaj	Commander, KLA	5-Mar-03	30-Nov-05 (Acquitted)
3	Isak Musliu	Prison Camp Commanders, KLA	20-Feb-03	30-Nov-05 (Acquitted)
4	Haradin Bala	Prison Camp Commanders, KLA	20-Feb-03	30-Nov-05 (Convicted)

* For period prior to 5 November 2004 Refer to Annex I, Enclosure I of the Previous Report, S/2004/897. Thus, from the inception of the Tribunal to 25 May 2005, in 20 trials, a total of 36 persons have been convicted and 3 persons acquitted. Three of the 36 convictions were later reversed on appeal.

2. Persons Pleading Guilty between 25 May 2005 and 30 November 2005 (2 persons)				
Case	**Name**	**Former Title**	**Initial Appearance**	**Judgement**
1	Miroslav Bralo	Member, HVO Special Forces ("The Jokers")	15-Nov-04	[Awaiting sentencing]
2	Ivica Rajić	HVO Operational Group Commander	27-June-03	[Awaiting sentencing]

* For the period prior to 5 November 2004 Refer to Annex I, Enclosure I of the Previous Report, S/2004/897. Thus, from the inception of the Tribunal to 25 May 2005, a total of 19 persons have pleaded guilty in a total of 15 cases.

3. Persons Convicted of Contempt between 25 May 2005 and 30 November 2005 (0 persons)			
Case	**Name**	**Initial Appearance**	**Judgement**
There were no persons convicted of contempt between 25 May 2005 and 30 November 2005.			

Legend:

ABiH: Army of Bosnia and Herzegovina
HVO: Croatian Defence Council
KLA: Kosovo Liberation Army

Enclosure II

1. Trials in Progress (8 accused, 5 cases)				
Case	**Name**	**Former Title**	**Initial Appearance**	**Comments**
1	Slobodan Milošević	President, FRY	3-Jul-01	"Kosovo, Croatia & Bosnia" Judgment expected late 2006
2	Naser Orić	Military and Police commander, BiH	15-Apr-03	"Srebrenica" Judgement expected June 2005
3	Enver Hadžihasanović	Brig Commander, ABiH	9-Aug-01	"Central Bosnia" Judgment expected January 2006
	Amir Kubura	Commander, ABiH	9-Aug-01	
4	Momčilo Krajišnik	President of RS National Assembly	7-Apr-00	"Bosnia & Herzegovina" Judgment expected July 2006
5	Mile Mrkšić	Colonel and Commanding Officer, JNA	16 May 2002	Trial commenced 10 October 2005
	Miroslav Radić	Captain, JNA	16 May 2002	
	Veselin Šljivančanin	Major, JNA	3 July 2003	
	Total Persons: 8			

All figures as of 30 November 2005

2. Contempt Cases in Progress (6 accused, 4 cases)			
Case	**Name**	**Initial Appearance**	**Comments**
1	Stjepan Šešelj	14 June 2005	Assigned to Trial Chamber
	Domagoj Margetić		
2	Ivica Marijačić	14 June 2005	Assigned to Trial Chamber
	Markica Rebić		
3	Josip Jović	14 October 2005	Assigned to Trial Chamber
4	Marijan Križić	26 September 2005	Assigned to Trial Chamber
	Total Persons: 6		

All figures as of 30 November 2005

Legend:

ABiH Army of Bosnia and Herzegovina
BiH Bosnia and Herzegovina
FRY Federal Republic of Yugoslavia
JNA Yugoslav People's Army
RS Republika Srpska

Enclosure III

1. New Arrivals and Remaining Fugitives					
1. Arrivals at the Tribunal between 25 May 2005 – 30 November 2005					
	Name	**Former Title**	**Place of crime**	**Arrival Date**	**Initial Appearance**
1	Sredoje Lukić	Member, Bosnian-Serb-run Special Operations Military Unit ("White Eagles")	Višegrad, BiH	16-Sept-05	20-Sept-05
Total new arrivals in reporting period: 1					

2. Remaining Fugitives				
	Name	**Former Title**	**Place of Crime**	**Date indictment**
1	Radovan Karadžić	President, RS	BiH	25-Jul-95
2	Ratko Mladić	Commander, Main Staff, VRS	BiH	25-Jul-95
3	Ante Gotovina	Commander, Split Military District, HV	Krajina, Croatia	31-May-01
4	Milan Lukić*	Member, Bosnian-Serb-run Special Operations Military Unit ("White Eagles")	Višegrad, BiH	21-Oct-98
5	Dragan Zelenović**	Sub Commander, Military Police, Serb forces	Foča, BiH	20-Apr-01
6	Vlastimir Đorđević	Assistant Minister, Serbian Ministry of Internal Affairs, VJ	Kosovo	25-Sep-03
7	Goran Hadžić	President, "SAO SBWS"	Croatia	28-May-04
8	Stojan Župljanin	Head or Commander of the Serb Operated Regional Security Services Centre	Krajina, Croatia	6-Oct-04
9	Zdravko Tolimir	Assistant Commander, Intelligence and Security of the Main Staff, VRS	Srebrenica and Zepa	10-Feb-05
	Total Remaining Indictees: 9			

* *In custody in Argentina, awaiting transfer*

** *In custody in Russia, awaiting transfer*

Legend:

HV: *Croatian Army*
RS: *Republika Srpska*
SAO SBWS: *Serbian Autonomous District, Slavonia Baranja and Western Srem*
VRS: *Bosnian Serb Army*
VJ: *Armed Forces of the Federal Republic of Yugoslavia*

Enclosure IV

Accused Awaiting Trial as of November 2005 (44 accused, 18 cases)			
Case	**Name**	**Former Title**	**Initial Appearance**
1	Pasko Ljubičić	Commander 4th Military Police Battalion, HVO	30-Sept-01
2	Dušan Fuštar	Shift Commander, Serb-run Omarska Detention Camp, BiH	6-Feb-02
	Momčilo Gruban	Shift Commander, Serb-run Omarska Detention Camp, BiH	10-May-02
	Dušan Knežević	Detention Camp staff, Serb-run Omarska Detention Camp, BiH	24-May-02
	Željko Mejakić	Commander, Serb-run Omarska Detention Camp, BiH	7-Jul-03
3	Dragoljub Ojdanić*	Chief of Staff, VJ	26-Apr-02
	Nikola Šainović*	Deputy Prime Minister, FRY	3-May-02
	Milan Milutinović*	President Republic of Serbia	27-Jan-03
	Vladimir Lazarević*	Commander, Pristina Corps, VJ, Kosovo	7-Feb-05
	Sreten Lukić*	Head Staff, Serbian Ministry of Internal Affairs, VJ, Kosovo	6-Apr-05
	Nebojša Pavković	General, Commander 3rd VJ Army, Kosovo	25-Apr-05
4	Milan Martić	President, "RSK"	21-May-02
5	Vojislav Šešelj	President, SRS	26-Feb-03
6	Franko Simatović*	Commander, Special Operations Unit, State Security Services ("DB"), Republic of Serbia	2-Jun-03
	Jovica Stanišić*	Head, State Security Services ("DB"), Republic of Serbia	12-Jun-03
7	Mitar Rašević	Commander, Serb-run Kazneno-Popravni Dom prison guards, BiH	18-Aug-03
	Savo Todović	Deputy Commander, Serb-run Kazneno-Popravni Dom prison guards, BiH	19-Jan-05
8	Vladimir Kovačević*	Commander, JNA	3-Nov-03
9	Jadranko Prlić*	President, "Herceg-Bosna"	6-Apr-04
	Bruno Stojić*	Head Department of Defence, "Herceg-Bosna"	
	Slobodan Praljak*	Assistant Minister Defence, "Herceg-Bosna"	
	Milivoj Petković*	Commander, HVO	
	Valentin Ćorić*	Chief of Military Police Administration, HVO	
	Berislav Pušić*	Military Police Commanding Officer, HVO	
10	Ljubiša Beara	Colonel, Chief of Security, VRS	12-Oct-04
	Drago Nikolić	Chief of Security, Drina Corps, VRS	23-Mar-05
	Ljubomir Borovčanin	Deputy Commander, Ministry of Interior Special Police Brigade, RS	7-Apr-05
	Vujadin Popović	Lt. Colonel, Assist. Commander, Drina Corps, VRS	18-Apr-05
	Vinko Pandurević	Commander, Zvornik Brigade, VRS	31-Mar-05
	Milorad Trbić	Deputy Commander, 3rd Battalion, Zvornik Brigade, VRS	13-Apr-05
	Milan Gvero*	Assistant Commander, VRS	2-Mar-05
	Radivoje Miletić*	Chief of Operations, Deputy Chief of Staff, VRS	2-Mar-05

	Name	Former Title	Initial Appearance
11	Ivan Čermak*	Assistant Minister Defence, Commander of Military Police, Croatia	12-Mar-04
	Mladen Markač*	Special Police Commander, Croatia	
12	Dragomir Milošević	Chief Commander, Romanija Corps, VRS	7-Dec-04
13	Rasim Delić*	Commander, ABiH	3-Mar-05
14	Momčilo Perišić*	Chief of General Staff, VJ	9-Mar-05
15	Ramush Haradinaj*	Commander, KLA	14-Mar-05
	Idriz Balaj	Commander, KLA	14-Mar-05
	Lahi Brahimaj	Deputy Commander, KLA	14-Mar-05
16	Mićo Stanišić*	Minister, Internal Affairs, RS	17-Mar-05
17	Johan Tarčulovski	Personal Security Officer for President, FYROM	21-Mar-05
	Ljube Boškoski	Minister of Interior, FYROM	1-Apr-05
18	Sredoje Lukić	Member, Bosnian-Serb-run Special Operations Military Unit ("White Eagles")	20-Sept-05
	Total Persons: 44		

* *On provisional release. In total, there are 22 Accused awaiting trial and 2 awaiting judgement that are on Provisional Release.*

Note: Ivica Rajic has plead guilty, and remains in custody until sentencing.

Legend:

ABiH - Army of Bosnia and Herzegovina
BiH - Bosnia and Herzegovina
FYROM - Former Yugoslav Republic of Macedonia
"Herceg-Bosna" - Croatian Republic of Herceg-Bosna
HVO – Croatian Defence Council
JNA – Yugoslav People's Army
KLA – Kosovo Liberation Army
RS - Republika Srpska
"RSK" - Republic of Serbian Krajina
SRS – Serbian Radical Party
VRS – Bosnian Serb Army
VJ - Armed Forces of the Federal Republic of Yugoslavia

Enclosure V

11bis motions pending as of 30 November 2005 (11 accused, 10 cases)				
Case	**Name**	**Former Title**	**Motion filed**	**Status**
1	Dušan Fuštar	Shift Commander, Serb-run Omarska Detention Camp, BiH	02-Sep-04	Motion granted, pending appeal
	Momčilo Gruban	Shift Commander, Omarska Detention Camp, BiH		
	Dušan Knežević	Detention Camp staff, Omarska, BiH		
	Željko Mejakić	Commander, Omarska Detention Camp, BiH		
2	Dragan Zelenović*	Sub-commander Military Police, paramilitary leader, Foča, BiH	21-Sep-04	Motion granted, pending appeal
3	Vladimir Kovačević	Commander, JNA	28-Oct-04	Pending decision
4	Savo Todović	Deputy Commander, Foča Kazneno-Popravni Dom prison staff, BiH	01-Nov-04	Motion granted, pending appeal
	Mitar Rašević	Commander, Foča Kazneno-Popravni Dom prison guards, BiH	04-Nov-04	Motion granted, pending appeal
5	Sredoje Lukić	Member, Serb paramilitary unit, BiH	01-Feb-05	Pending decision
	Milan Lukić*	Member, Serb paramilitary unit, BiH		
6	Pasko Ljubičić	Commander, HVO	04-Nov-04	Pending decision
	Total Persons: 11			

* fugitive

11bis motions granted as of 30 November 2005 (4 accused, 3 cases)				
Case	**Name**	**Former Title**	**Motion filed**	**Status**
1	Rahim Ademi	Major-General, HVO	02-Sep-04	Case referred to Croatia 14 Sept. 2005 *(Decision not appealed)*
	Mirko Norac	Commander, HVO		
2	Radovan Stanković	Para Military Unit, Serb forces, Foča, BiH	21-Sep-04	Case referred to BiH 17 May 2005 *(Affirmed on appeal 1 Sept. 2005)*
3	Gojko Janković	Military Police Commander, Serb forces, Foča, BiH	21-Sep-04	Case referred to BiH 22 July 2005 *(Affirmed on appeal 15 Nov. 2005)*
	Total Persons: 4			

11bis motions denied as of 30 November 2005 (1 accused, 1 case)				
Case	Name	Former Title	Motion filed	Status
1	Dragomir Milošević	Chief Commander, Romanija Corps, VRS	31-Jan-05	Motion to refer denied 8 July 2005
	Total Persons: 1			

11bis motions withdrawn as of 30 November 2005 (4 accused, 2 case)				
Case	**Name**	**Former Title**	**Motion filed**	**Status**
1	Mile Mrkšic	Colonel and Commanding Officer, JNA	08-Feb-05	OTP withdrew motion on 30 June 2005
	Mile Radic	Captain, JNA		
	Veselin Šljivančanin	Major, JNA		
2	Ivica Rajic	Commander, HVO	28-July-05	OTP filed notice to withdraw motion on 10 Nov. 2005 after guilty plea on 26 Oct. 2005
	Total Persons: 4			

Legend *BiH: Bosnia and Herzegovina* *JNA: Yugoslav People's Army*
HVO: Croatian Defence Council *VRS: Bosnian Serb Army*

Enclosure VI

APPEALS COMPLETED FROM 26 MAY 2005 TO 30 NOVEMBER 2005 [1]

(with date of Filing and Decision)

INTERLOCUTORY

ICTY		
Naser Oric IT-03-68-AR73.2		06/07/05-20/07/05
Boskovski and Tarculovski IT-04-82-AR 72.1		15/06/05-22/07/05
Hadzihasanovic & Kubura IT-01-47-Ar65.3 (*confidential*)		25/07/05-29/07/05
Halilovic IT-01-48-AR 73.2		06/07/05-19/08/05
Halilovic IT-01-48-Ar65.1 (*confidential*)		29/07/05-13/09/05
Milosevic IT-02-54-AR108bis.2 (*confidential*)		22/07/05-20/09/05
Boskovski&Tarculovski IT-04-82-AR 65.1		21/07/05-28/09/05
Pandurevic & Trbic IT-05-86-Ar65.1		25/07/05-03/10/05
Boskovski&Tarculovski IT-04-82-AR 65.1		21/07/05-04/10/05
Krajisnik IT-00-39- Ar98.1		16/09/05-04/10/05
Todovic IT-97-25/1-Ar65.1		29/07/05-07/10/05
Stanisic IT-04-79-Ar65.1		25/07/05-17/10/05
Tolimir, Miletic & Gvero IT-04-80-Ar65.1		22/07/05-19/10/05
Popovic IT-02-57-Ar65.1		27/07/05-28/10/05
Milutinovic IT-05-87-Ar65.1		27/09/05-01/11/05
Petkovic IT-04-74-Ar72.1		12/10/05-16/11/05
Rajic IT-95-12-Ar 65.1		04/10/05-16/11/05
ICTR		
Nsengimana ICTR-01-69-A		19/07/05-24/08/05
Bagosora ICTR-98-41-Ar73		01/08/05-06/10/05
Bagosora ICTR-98-41-Ar73 (OTP)		04/08/05-06/10/05
Nzirorera ICTR-98-44-Ar72.5		19/08/05-14/10/05
Nzirorera - ICTR-98-44-AR72.6		19/09/05-14/11/05
Bizimungu – ICTR-99-50-AR73		04/10/05-16/11/05

FROM JUDGEMENT

ICTY		
Babi}	IT-03-72-A	16/07/04-18/07/05
Deronji}	IT-02-61-A	14/04/04-20/07/05
Joki}	IT-01-42/1-A	23/04/04-30/08/05
ICTR		
Kamuhanda	ICTR-99-54-A	03/02/04-19/09/05

CONTEMPT

ICTY	
Milosevic IT-02-54-Ar77.4	27/05/05-29/08/05

REFERRAL

ICTY	
Stankovic IT-96-23/2-Ar11.bis.1	25/05/05-01/09/05
Jankovic IT-96-23/2-Ar11bis.2	05/08/05-16/11/05

REVIEW

[1] **Total number of Appeals Completed from 26 May 2005 = 30**

Interlocutory Appeals – 23 Contempt – 1 Referral – 2
Appeals from Judgement – 4 Review – 0

Enclosure VII

APPEALS CHAMBER SUMMARY 2005

APPEALS pending as of 30 November 2005 [2]
(with date of filing)

INTERLOCUTORY

ICTY	
Delic IT-04-83-Ar72	21/07/05
Jankovic IT-96-23/2-Ar65.1	03/10/05
Tolimir et al (Pandurevic) IT-05-86-Ar73.1	11/10/05
Tolimir et al IT-04-80-Ar.73.1	13/10/05
Haradinaj IT-04-84-Ar65.1	19/10/05
Lahi Brahimaj IT-04-84-AR65.2	10/11/05
Drago Nikokic IT-05-88-AR65.1	17/11/05
ICTR	
Nzirorera ICTR-98-44-Ar72.6	14/10/05
Nzirorera - ICTR-98-44-AR72	14/10/05

APPEALS FROM DECISIONS OF THE PRESIDENT

ICTR	
Bagilishema ICTR-95-1A-A	22/11/05

FROM JUDGEMENT

ICTY		
Martinovic/Naletelic IT-98-34-A		07/04/03
Staki}	IT-97-24-A	11/08/03
Simi}	IT-95-9-A	17/11/03
Gali}	IT-98-29-A	15/12/03
Nikoli}	IT-02-60/1-A	30/12/03
Brđanin	IT-99-36-A	30/09/04
Blagojevic/Jokic	IT-02-60-A	23/02/05
Strugar	IT-01-42-A	02/03/05
ICTR		
Media	ICTR-99-52-A	12/12/03
Cyangugu	ICTR-99-46-A	04/03/04
Gacumbitsi	ICTR-01-64-A	16/07/04
Ndindabahizi	ICTR-01-71-A	13/08/04
Muhimana	ICTR-95-1B-A	20/05/95

REFERRAL

Rasevic & Todovic IT-97-25/1-Ar11bis.1	25/07/05
Mejakic IT-02-65-Ar11bis.1	04/08/05

REVIEW

ICTY		
Blaskic	IT-95-14-R	29/07/04
ICTR		
Niyitegeka	ICTR-96-14-R	27/10/04

[2] **Total number of Appeals pending = 27**

Interlocutory Appeals = 9 — Contempt = 0 — Referral = 2
Appeals from Judgement = 13 — Review = 2 — From decision of President = 1

ANNEX II- ASSESSMENT OF CARLA DEL PONTE, PROSECUTOR OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA, PROVIDED TO THE SECURITY COUNCIL PURSUANT TO PARAGRAPH 6 OF SECURITY COUNCIL RESOLUTION 1534

INTRODUCTION

1. As a follow-up to the last assessment of 13 June 2005, the present report provides an updated assessment of the progress made towards implementing the completion strategy of the Tribunal. It outlines the measures already taken and indicates the steps that remain to be taken.

2. The first objective of the completion strategy was to conclude all new investigations by 31 December 2004. This first major milestone, which entirely relied on the activities and efforts of the Prosecutor and her Office, was reached as planned. By the end of last year, the investigation of all remaining targets had been completed and the final indictments were presented for confirmation and subsequently all of them were confirmed by the Chambers. The Office of the Prosecutor remains fully committed to do its utmost, within the framework of its mandate, to meet the other objectives of the completion strategy in close co-operation with the President and the Chambers.

3. The completion strategy is twofold: first, to try those bearing the gravest responsibility for the crimes, including the high-profile fugitives, and thus complete its activities in a swift and efficient, yet fair and impartial, manner; second, to transfer cases involving mid- and lower-level perpetrators to the domestic jurisdictions of the territories of the former Yugoslavia. Three cases involving four accused have already been transferred to Bosnia and Herzegovina and to Croatia and six other motions involving twelve accused are pending before the Chambers.

4. Unfortunately, the successful achievement of the completion strategy remains hampered by the very same problem that has been raised by the ICTY on numerous occasions: some of the principal perpetrators, especially Radovan Karadzic and Ratko Mladic, who are both accused of genocide, remain at large. The fact that these fugitives remain at large is not only an affront to justice but also undermines the completion strategy by making it impossible to join these fugitives to pending cases. Thus, the day that their trials can be commenced is pushed further and further into the future.

PROGRESS MADE TOWARDS THE IMPLEMENTATION OF THE COMPLETION STRATEGY

5. In the reporting period, one accused, Sredoje Lukic, was surrendered to the custody of the Tribunal. He was indicted on 26 October 1998 and is charged with seven counts of crimes against humanity and five counts of violations of the laws and customs of war. These crimes were

committed against the Muslim population of Visegrad, in eastern Bosnia and Herzegovina. He was transferred to The Hague by the authorities of Republika Srpska within Bosnia and Herzegovina on 16 September. He had been hiding for years in Russia, and the Serbian authorities co-operated to facilitate his transfer to The Hague. Furthermore, two accused are detained in third countries pending their transfer to The Hague. Milan Lukic, who was indicted together with his relative Sredoje Lukic, for the same crimes, was arrested on 8 August in Argentina. Dragan Zelenovic was arrested by the Russian authorities on 22 August. He is charged with seven counts of crimes against humanity and seven counts of violations of the laws or customs of war. He is, in particular, accused of multiple cases of rape against Muslim women in Foca, in the eastern part of Bosnia and Herzegovina. It seems the long delays before the transfer of these two fugitives are due to domestic administrative and technical legal reasons.

6. These three accused are mid-level perpetrators, and motions have been filed to request their transfer to Bosnia and Herzegovina. It is urgent that these accused are transferred to The Hague so that the Chambers can decide on the prosecution's motions. Therefore, the prosecutor calls on Argentina and Russia to speed up the respective processes.

7. Seven persons indicted by the ICTY are still at large. One year ago, there were twenty. As previously reported, ten fugitives were transferred to The Hague before the prosecutor's last report to the Council, and three were brought to custody in the reporting period. Unfortunately, the most important indictees, including those mentioned in several Security Council resolutions, Radovan Karadzic, Ratko Mladic and Ante Gotovina, have not yet appeared in The Hague. The Office of the Prosecutor has increased its efforts to help locate and apprehend them. The Prosecutor has taken initiatives in order to better co-ordinate the activities carried out by the various national authorities and international bodies in order to locate and arrest them. In particular, she encouraged the relevant bodies of Serbia, Montenegro and Bosnia and Herzegovina to intensify their exchanges of information and their operational co-operation. She also held numerous meetings with NATO, EUFOR and senior national officials of many countries to request their political and operational support.

Transfer of cases

8. Over the last eighteen months, the Prosecutor's Office has taken various initiatives in order to prepare for the transfer of indicted cases to the domestic jurisdictions of Bosnia-Herzegovina, Croatia and Serbia and Montenegro. Adequate legislative and institutional frameworks were created in the countries of the former Yugoslavia, and the Organisation for Security and Co-operation in Europe has agreed to work with the Prosecutor on monitoring the cases transferred by the ICTY. In accordance with the Security Council resolutions 1503 and 1534, which prescribes that only the most senior leaders responsible for the most serious crimes must be tried in The

Prosecutor between 1 September 2004 and 28 July 2005, requesting the deferral of indicted cases pursuant to Rule 11 *bis* of the Rules of Procedure and Evidence. So far, one case involving two accused was transferred to Croatia and two cases with one accused each were transferred to Bosnia and Herzegovina. One motion involving three accused was withdrawn by the prosecution.

while another motion involving one accused was denied by the Chambers. In another case, the accused, Ivica Rajic, has plead guilty on 26 October 2005. Another accused who was intended to be transferred to Bosnia and Herzegovina in accordance with Rule 11*bis*, Miroslav Bralo, plead guilty on 19 July 2005. The six remaining motions are at various stages of the procedure.

9. Even after the transfer of these indicted cases to national jurisdictions, the Office of the Prosecutor is not completely discharged of all its obligations regarding them. Under the applicable Rule, the Prosecutor may monitor proceedings in the national courts, and the OSCE has agreed that it will monitor these trials, also on behalf of the Prosecutor. The Chambers have furthermore ordered the Prosecutor to report at regular intervals on the proceedings. Under Rule 11*bis*, the ICTY remains able to revoke the transfer of a case, should it assess that a fair trial is not being conducted.

10. In addition to these transfers of indicted cases under Rule 11*bis*, the OTP has also started to handover non-indicted cases, i.e. investigative material, to national prosecutors for their review and further investigations. Co-operation has been launched with the relevant authorities in Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia and Serbia for this purpose. For instance, the OTP will provide the State Prosecutor of Bosnia and Herzegovina with more than a dozen such non-indicted cases involving about 40 suspects.

Measures taken to improve judicial efficiency

11. The OTP has been actively working on joining cases involving the same crime base. The multiple accused trials will result in a number of efficiencies and savings by allowing for multiple trials to be consolidated into one trial, thus saving considerable time and courtroom space. In particular, the crime base will not need to be proven repeatedly, and therefore the same testimony and evidence can be heard only once rather than in multiple trials. One motion involving seven accused indicted for crimes committed in Kosovo was filed on 1st April 2005. The Chambers took a positive decision on 8 July 2005. A second motion was filed on 10 June 2005 with a view to join the cases of nine persons accused for the Srebrenica genocide. A positive decision was taken by the Chambers on 21 September 2005. Both trials are scheduled to begin towards the middle of 2006. However, there is one remaining fugitive in each of the two cases, Vlastimir Djordjevic for the Kosovo case and Zdravko Tolimir for the Srebrenica case. These two accused will have to be tried separately, even though the crime base is the same as their co-accused, if they are not brought to The Hague in the next weeks, thereby causing significant efficiency losses, including court time and travel for witnesses as well as repetition of trials.

12. On 19 July, the Prosecution filed a third motion requesting the joining of three cases involving four accused, Milan Martic, Jovica Stanisic, Franko Simatovic and Vojislav Seselj. The Trial Chamber denied this motion on 10 November 2005. As a result, three trials will have to be conducted instead of one.

13. The Prosecutor's policy of joining accused in a single trial was applied previously in the case Prlic

Measures taken to improve the management and efficiency of the Office of the Prosecutor

14. The management of the Office closely reflects the progress made in the implementation of the completion strategy. 2006 will be the busiest period in the ICTY's life, with the advent of multi-accused trials. Thus, in 2006 we expect to have some 33 accused on trial as opposed to 12 in 2005. Despite this increased activity to meet the completion strategy, significant reductions in staff were made in the Office of the Prosecutor following the achievement of the first phase of the completion strategy, and the size of the investigation division has been reduced by 37% or 79 posts. Furthermore, in the context of the 2006-2007 biennial budget, the redeployment of 15 posts from the investigation division to the prosecution division and the appeals section has been proposed. This move is aimed at addressing the increased trial activities resulting from the multi-accused trials and the growing appeals work load as envisaged by the completion strategy. The budget also foresees a reduction on non-post items, such as travel and General Temporary Assistance, resulting from efforts to streamline our processes. The proposed OTP budget for 2006-7 amounts to $72 million and reflects an overall net reduction in posts and non-posts amounting to over $11 millions or 13.7% in comparison with the 2004-5 OTP budget.

15. It should be emphasised once more that the end of investigations does not mean the end of all investigative activities. The term "Investigation" is defined in Rule 2 of the Tribunal's Rules of Procedure and Evidence as meaning:

    a. *"All activities undertaken by the Prosecutor under the Statute and the Rules for collection of information and evidence, whether before or after an indictment is confirmed."* (emphasis added).

    Skilled investigators and the other staff in the Investigation Division, such as the criminal, political, and military analysts remain essential for the prosecution process, including both in the pre-trial and in the trial phases, as well as during the appeal stage.

16. Several measures were taken to increase the administrative and judicial efficiency of the OTP. There has been an increased focus on coordination of legal issues within the Office, and the Prosecutor strongly supported steps to shorten the 98*bis* procedure, thus saving months off each trial. Furthermore, the OTP has increased its efforts to make an effective use of IT technology in the pre-trial and trial phases.

EXTERNAL FACTORS IMPACTING ON THE IMPLEMENTATION OF THE COMPLETION STRATEGY

Arrest of Fugitives

17. The main factor hampering the implementation of the completion strategy has been and remains the failure to arrest and transfer all persons indicted by the Tribunal. In the reporting period, only three accused were taken into custody, compared to twenty in the previous period, and two of [illegible] In her last report to the Council, the Prosecutor

Herzegovina seemed to have reached their limits. This assessment proved to be correct. There are several reasons for that.

18. First, the seven remaining fugitives are less likely to accept to surrender voluntarily than the accused who were transferred in the first part of this year. Therefore, arrest operations must be carried out, which are considered by the various authorities as risky both politically and operationally. Second, those remaining fugitives are well organised, funded and continue to enjoy the protection of powerful support networks, both within and outside State institutions. The Prosecutor expects the relevant States to intensify the collection of reliable intelligence on their whereabouts so as to be able to launch successful arrest operations. Third, it has to be reminded that the arrest of ICTY fugitives is an obligation of all States. Certain international organisations, such as NATO and EUFOR in Bosnia and Herzegovina, also have the mandate to conduct or support operations against persons indicted by the ICTY. The activities of the international community in this context have not been conducted in an efficient manner over the past years. They have in particular demonstrated grave deficiencies in the co-ordination and sharing of information, and have not led to results. The last time a fugitive indicted by the ICTY was arrested by the international community in Bosnia and Herzegovina was in July 2002.

19. The Office of the Prosecutor does not have the mandate to carry out intelligence or arrest operations on its own. In the past months, the Prosecutor and her Office have strengthened bilateral relations with the relevant authorities in the countries of the former Yugoslavia, as well as with the leadership of NATO. A satisfactory level of mutual trust has been achieved at the most senior level. In parallel, the Office of the Prosecutor has encouraged the relevant authorities at the working level to intensify their co-operation. This initiative is bearing some fruit. The arrest of Milan Lukic in Argentina, for instance, was a good instance of co-operation between Belgrade, Zagreb and Buenos Aires.

20. The authorities of Croatia continue to provide the Prosecutor full co-operation on the search for Ante Gotovina. Otherwise, there is no significant problem in the co-operation offered by Croatia to the OTP, which has been full over the past three to four months. It is expected that Croatia will continue to provide unhampered access to documents and to act aggressively against the criminal networks providing support and protection to Ante Gotovina.

21. Matters are much more difficult with the other six remaining fugitives. Radovan Karadzic, the former President of Republika Srpska, seems to have vanished. There hasn't been any credible information on his past or present location for months now. There are assumptions that he could be hidden in monasteries in Serbia, Montenegro or Republika Srpska within Bosnia and Herzegovina, or even that he could have disappeared in other countries. However, these assumptions are not based on evidence which is in the possession of the Prosecutor. In the meantime, Karadzic manages to write and publish books; the latest one was presented to the public in mid-October in Serbia. Regarding Ratko Mladic, the former leader of the Bosnian Serb Army, the Serbian authorities have admitted that he was hidden by the Army of Serbia and Montenegro at least until 2002. The Serbian authorities have expressed the clear political will to arrest and transfer him to The Hague, and they have taken a number of measures for this purpose. It is however likely that Mladic can still benefit from significant support within key institutions,

disposal to assess why these two most important fugitives are still at large more than ten years after they were indicted, on 25 July 1995.

22. Vlastimir Djordjevic, a former Police General accused of crimes committed in Kosovo against Kosovo Albanians, is still likely to be in Russia. The Office of the Prosecutor has passed available information to the Russian authorities on his possible location. Russia has assured the Prosecutor that Djordjevic was not found at the mentioned location and that investigations are on-going. It is urgent that Djordjevic be brought to The Hague, because the trial of his co-accused is due to begin towards the middle of next year. The same remark can be made regarding Zdravko Tolimir, a former Assistant of Ratko Mladic for Intelligence and Security, who should be tried together with his eight co-accused in a trial due to start in the second half of 2006. Separate trials would divert significant resources, including courtroom time, and therefore significantly impact on the completion strategy.

23. Goran Hadzic, a former leader of the so-called Republika Srpska Krajina, was indicted on 4 June 2004 for serious crimes committed against Croats and other non-Serbs in Croatia. He was tipped off and left his house just hours after the indictment was given to the Ministry of Foreign Affairs of Serbia and Montengro. His whereabouts remain unknown. Stojan Zupljanin was a senior official of the so-called "Autonomous Region of Krajina" in Bosnia and Herzegovina. He was indicted on 14 March 1999 for serious crimes aimed at destroying the Bosnian Muslim and Bosnian Croat communities in that region. Although his precise location is not known, there are reliable indications showing that he is in Serbia and Montenegro or in Republika Srpska within Bosnia and Herzegovina. The OTP's intention is to file a motion requesting a joint trial in The Hague with Mico Stanisic, a former Minister of Interior of Republika Srpska within Bosnia and Herzegovina, who has been on provisional release since 25 July 2005.

24. The Office of the Prosecutor expects from Serbia and Montenegro and from Bosnia and Herzegovina, in particular from the authorities of Republika Srpska, that they redouble their efforts to apprehend the remaining six fugitives who are within their reach. It also encourages the international community to provide all necessary support, material or otherwise, to reach that goal.

Other Forms of Co-operation of States and International Institutions

25. The lack of willingness of the Army of Serbia and Montenegro to co-operate is also demonstrated by its systematic obstruction to the access by the OTP to relevant documents. Despite the energetic efforts of the civilian leadership, the military continues to deny the existence of certain documents, to refuse access to archives or to provide documents after long delays and under such conditions that they can not be used in court.

26. The OTP is faced with similar difficulties in Bosnia and Herzegovina. One of the remaining problems, aside from the fugitives, is the missing wartime archives of Republika Srpska. According to various accounts, they were moved to Serbia or hidden by interested individuals.

27. There is no significant problem with the other States of the former Yugoslavia. Croatia and the former Yugoslav Republic of Macedonia usually respond to requests for assistance in a timely and satisfactory manner. Whenever difficulties arise on specific issues, they can be solved in a pragmatic and efficient way.

28. In several cases, particularly Limaj et al. and Haradinaj et al., the OTP is co-operating with another UN body, UNMIK. The main requests from the OTP relate to the access to documents – which is sometimes denied or made difficult - and to the protection of witnesses. As noted by Ambassador Eide in his recent report to the Council, the intimidation of witnesses is a very serious problem in Kosovo that represents a daily challenge for the prosecution. There is an intense co-operation with UNMIK to ensure that witnesses receive adequate protection and that threats to witnesses are being addressed promptly. This relationship, however, is not always without strain.

CONCLUSION

29. As demonstrated by the present report, the Office of the Prosecutor is doing the maximum to keep up as much as possible with the timeframe of the completion strategy. The first deadline of this strategy was met with all the remaining investigations completed by the end of last year. Additionally, the Office of the Prosecutor continues to work closely with the other organs of the Tribunal to meet the objectives set in Resolutions 1503 and 1534.

30. The Office of the Prosecutor has initiated the transfer of mid-level perpetrators to domestic courts, it has proposed the joining of cases, and it is continuously reviewing the charges in all cases, so as to increase the efficiency of the ICTY's work.

31. The Tribunal, however, does not operate in a vacuum and the successful implementation of the completion strategy will depend on the apprehension of the remaining seven fugitives, among them the three indictees mentioned in several Security Council resolutions. The arrest of Radovan Karadzic and Ratko Mladic, in particular, requires a much more decisive approach from the authorities of Serbia and Montenegro and Bosnia and Herzegovina. The international community can make a difference by maintaining a strong interest in the matter, increasing the national resources devoted to their search and better co-ordinating the various efforts.